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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91205896
Party	Plaintiff Beau L. Tardy
Correspondence Address	WENDY PETERSON NOT JUST PATENTS LLC PO BOX 18716 MINNEAPOLIS, MN 55418 UNITED STATES wsp@NJPLS.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Wendy Peterson
Filer's e-mail	wsp@NJPLS.com
Signature	/Wendy Peterson/
Date	04/24/2015
Attachments	Opposer's First Notice of Reliance.pdf(25984 bytes) Exhibit 1 Applicant's written Discovery Responses.pdf(163125 bytes) Exhibit 7 TSDR Status Applicant DIZZY marks.pdf(1731661 bytes) Exhibit 8 85741800 TSDR and parts of prosecution file.pdf(1471593 bytes) Exhibit 9 Updated Supplemental Disclosure.pdf(1397187 bytes)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Opposition Proceeding 91205896

In the matter of Trademark Application No. 85509929

For the mark: DIZZY

Published for Opposition Date: June 5, 2012

Beau Tardy, Opposer

v.

Wild Brain Entertainment, Inc., Applicant

OPPOSER'S FIRST NOTICE OF RELIANCE

Opposer Beau Tardy hereby submits the following documents for Pretrial Disclosures via Notice of Reliance.

Document	Exhibit	Description / Statement of Relevance
Applicant's Responses to Requests for Admissions; Applicant's Production Responses; Applicant's Responses to Amended Requests for Admissions; Applicant's Supplemental Responses to Production Responses	Exhibit 1	Applicant admits to having abandoned a large number of applications without Statements of Use filed; admissions regarding having no projected first use date, no licensee contracts; no projected retail or wholesale prices and other signs of lack of bona fide intent to use. Applicant provided no documents to support any of the Requests for Admissions. Applicant provided no documents to show any bona fide intent for the goods in IC 9 for DIZZY subject to this opposition. Applicant provided no documents to show bona fide intent to use for the UMIGO and TEAM SMITHEREEN marks that show a propensity to apply for marks

		for which statements of use are not filed.
Applicant's Confidential Production Documents 1-10	Exhibit 2	No DIZZY documents provided for production, only UMIGO. Admissible as failure to provide any evidence of bona fide use.
Applicant's Confidential Production Documents 11-40	Exhibit 3	No DIZZY documents provided for production, only UMIGO. Admissible as failure to provide any evidence of bona fide use.
Applicant's Confidential Production Documents 41-100	Exhibit 4	No DIZZY documents provided for production, only UMIGO. Admissible as failure to provide any evidence of bona fide use.
Applicant's Confidential Production Documents 101-200	Exhibit 5	No DIZZY documents provided for production, only UMIGO. Admissible as failure to provide any evidence of bona fide use.
Applicant's Confidential Production Documents 201-221	Exhibit 6	No DIZZY documents provided for production, only UMIGO. First 20 pages of 100 pages of drawings are disclosed. Remaining drawings not disclosed are repetitive. Admissible as failure to provide any evidence of bona fide use.
TSDR Status reports for all of Applicant's DIZZY marks not subject to this proceeding (all abandoned)	Exhibit 7	Evidence of Applicant's lack of bona fide intent to use DIZZY marks.
TSDR Opposer's suspended DIZZY application SN 85741800; items from prosecution file-Suspension notice; Specimens	Exhibit 8	Evidence of Opposer's real interest in mark DIZZY for standing
Updated Supplemental Disclosures from Opposer served on Applicant 12/3/2014	Exhibit 9	Evidence that Opposer has real interest in proceeding and sworn statement that everything has been disclosed

Submitted By: /Wendy Peterson/

Date: April 24, 2015

Wendy Peterson, Attorney for Opposer, Beau Tardy
Not Just Patents
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CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2015, the foregoing was served upon Applicant's attorney
by email to:

jreichman@kenyon.com , wmerone@kenyon.com , tmocketny@kenyon.com

By: /Wendy Peterson/

Date: April 24, 2015

Wendy Peterson, Attorney for Opposer, Beau Tardy

Exhibit 1

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application No. : 85/509,929
Applicant : Wild Brain Entertainment, Inc.
Mark : DIZZY
Filed : January 5, 2012
Published : June 5, 2012

BEAU L. TARDY,

Opposer,

v.

WILD BRAIN ENTERTAINMENT, INC.,

Applicant.

Opposition No.: 91/205,896

Mark: DIZZY

**APPLICANT WILD BRAIN ENTERTAINMENT, INC.'S RESPONSES TO OPPOSER
BEAU L. TARDY'S FIRST SET OF REQUESTS FOR ADMISSION**

Wild Brain Entertainment, Inc. ("Applicant"), by its undersigned counsel, hereby objects and responds to Opposer Beau L. Tardy's ("Opposer") First Set of Requests (the "Requests," also referred to individually as "Request"), pursuant to Rule 36 of the Federal Rules of Civil Procedure and Section 407 of the Trademark Trial and Appeal Board Manual of Board Procedure.

Applicant's responses are based upon the best information presently available to Applicant and within Applicant's possession, custody, or control. Where Applicant does not have information, response to any Request shall not be deemed to constitute an admission of any kind, that any responsive information does not exist, and/or that any statement or characterization in such response is complete. These responses are given without prejudice to further revision or supplementation of these responses by Applicant if further discovery or

investigation so requires. These objections and responses are also provided without prejudice to any right of Applicant to offer evidence on its behalf or to object to the relevance, competence, or admissibility on any ground of any evidence or witness offered by Opposer.

GENERAL OBJECTIONS

1. Applicant responds to the Requests subject to and without intending to waive, and expressly preserving (a) any objections as to competency, relevancy, materiality, privilege, and admissibility of any of the responses, and (b) the right to object to other Requests involving or relating to the subject matter of the Requests responded to herein.

2. Applicant objects to each Request to the extent that it is inconsistent with or seeks to impose obligations beyond those imposed by the Federal Rules of Civil Procedure and/or the rules of the Trademark Trial and Appeal Board.

3. Applicant objects to each Request to the extent that it uses language calling for a legal conclusion. Applicant's responses herein shall be as to matters of fact only and shall not be construed as stating or implying any conclusions of law concerning the matters referenced in any Request.

4. Applicant objects to each Request to the extent that it calls for information protected by the attorney-client privilege or that may be protected by any other privilege. Such information or documents will not be disclosed or produced. Where the applicability of this general objection is readily apparent from the text of the Request, Applicant may also make a specific objection (hereinafter, an objection on the ground of "Privilege") pursuant to this paragraph, although the failure to make a specific objection shall not be deemed to be a waiver of this general objection.

5. Applicant objects to each Request in that it seeks information or materials prepared by Applicant or its representatives in anticipation of litigation or for trial. Such information or materials will not be disclosed or produced. Where the applicability of this general objection is readily apparent from the text of the Request, Applicant may also make a specific objection (hereinafter, an objection on the ground of “Work Product”) pursuant to this paragraph, although the failure to make a specific objection shall not be deemed to be a waiver of the general objection.

6. Applicant objects to each Request in that it seeks information outside of Applicant’s possession, custody, or control, or information already in the possession of Opposer.

7. Applicant objects to each Request in that it seeks information not relevant to the subject matter of this litigation, or that is not reasonably calculated to lead to the discovery of admissible evidence.

8. Applicant objects to each Request in that it seeks information that is vexatious or unduly burdensome to obtain.

9. Applicant objects to each Request to the extent that it is ambiguous, vague, or otherwise incomprehensible.

10. Applicant objects to each Request to the extent that it is overly broad or fails to set forth with reasonable particularity the information requested.

11. Applicant objects to the Requests to the extent that the instructions contained therein are overly broad, unduly burdensome, vague, ambiguous, and/or inconsistent with or seek to impose obligations beyond those imposed by the Federal Rules of Civil Procedure and/or the rules of the Trademark Trial and Appeal Board.

12. Applicant objects to each Request in that it seeks “all” information and/or documents and things responsive to the Request categories, on the grounds that it is overly broad, unduly burdensome, and/or irrelevant. Applicant has used and will use reasonable diligence to locate documents in its possession, custody, or control, based upon an examination of those files reasonably expected to yield responsive documents. Identification of information and/or materials in these responses should not be construed as representations that all information and/or documents in the possession, custody, or control of Applicant has been examined in connection with these responses or produced pursuant thereto.

13. Applicant notes that discovery in this matter is ongoing, and that it has not yet completed its preparations for trial. As discovery proceeds, facts, information, evidence, documents, and things may be discovered that are not set forth in these responses, but which may have been incorporated into these responses had they been available. The following responses are based on Applicant’s knowledge, information, and belief at this time and are complete as to Applicant’s best knowledge at this time. Applicant reserves the right to amend or supplement these responses and to assert additional objections as warranted. Applicant also reserves the right to revise, correct, add to, or clarify any of the responses set forth herein.

14. Applicant expressly incorporates the foregoing general objections as though set forth fully in its response to each of the individual Requests and, to the extent that they are not raised in any particular response, Applicant does not waive those objections. An answer to a Request shall not be deemed a waiver of any applicable specific or general objection to a Request. Moreover, by responding to any of the Requests, Applicant does not waive any objections it may have that the information requested is not relevant or is inadmissible at trial in this proceeding, and expressly reserves the right to assert those objections.

RESPONSES AND SPECIFIC OBJECTIONS

REQUEST NO. 1:

Admit that DIZZY SN 85509926 was ABANDONED because no Statement of Use was filed for the goods: Paper goods and printed matter, namely, a series of fiction books featuring stories in the field of children's education; trading cards; collectors cards; comic books and magazines in the field of children's education; graphic novels; novels; printed postcards; picture postcards; comic postcards; postcards; notebooks; binders; decals; stickers; posters; photograph and scrapbook albums; calendars; greeting cards; folders; desk pads; writing pads; stationery folders and stationery; pens; pencils; erasers; video game strategy manuals and books; computer game instruction manuals; paper towels; paper storage containers; chalk boards; dry erase writing boards and writing surfaces; paper flags; paper pennants.

RESPONSE TO REQUEST NO. 1:

Applicant objects to this Request as unduly burdensome in that it seeks information that is on the public record, and therefore already within the possession of or available to Opposer.

Applicant further objects to this Request as calling for a legal conclusion, and as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 2:

Admit that DIZZY SN 85509933 was ABANDONED because no Statement of Use was filed for the goods: Toys, games and sporting goods, namely, board games, card games, play figures and accessories therefor, action figures and accessories therefor, toy figures, electric action toys, mechanical action toys, dolls and accessories therefor, doll playsets, plush toys, stuffed toys, puppets, windup toys, dominoes, jigsaw puzzles, manipulative games, marbles, paddle ball games, yo-yo's, balloons, jump ropes, kites and accessories therefor, namely, kite boards, kite handles, kite string, kite tails and kite reels, bubble making wands and solution sets, magic tricks, bath toys, play swimming pools, toy vehicles and accessories therefor, toy model hobby craft kits, toy banks, toy boxes, toy guns, toy holsters, toy archery bows and arrows, toy rockets, toy bucket and shovel sets, children's play cosmetics, baby rattles, baby multiple activity toys, toy construction blocks, musical toys, target games, action skill games, balls, namely, baseballs, basketballs, footballs, golf balls, tennis balls, playground balls, sport balls, soccer balls, volleyballs, rubber balls, foam rubber balls, baseball bats, baseball gloves, flying disks, disc type toss toys, body boards, badminton sets, dart flights, golf club head covers, roller skates, skateboards, toy scooters, swim fins, swim floats for recreational use, face masks, pinball-type games, Christmas tree decorations, egg decorating kits, hand held units for playing electronic games other than those adapted for use with an external display screen or monitor, arcade game

machines, arcade-type electronic video game machines, pinball machines, pinball-type game machines, stand-alone video game machines, LCD game machines, beach balls, in-line skates, ride-on toys, toy swords, and playing cards.

RESPONSE TO REQUEST NO. 2:

Applicant objects to this Request as unduly burdensome in that it seeks information that is on the public record, and therefore already within the possession of or available to Opposer.

Applicant further objects to this Request as calling for a legal conclusion, and as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 3:

Admit that TEAM SMITHEREEN SN 77581487 was ABANDONED because no Statement of Use filed for the goods: Clothing, namely, shirts, t-shirts, sweatshirts, sweaters, vests, jackets, warm-up suits, robes, pants, shorts, clothing belts, dresses, overalls, infantwear, playsuits, cloth bibs, headwear, footwear, boots, socks, tights, beachwear, swimsuits, swimwear, bathing caps, tennis wear, rainwear, coats, gloves, mufflers, hats, sun visors, neckwear, cummerbunds, bandanas, scarves, pajamas, nightshirts, nightgowns, undergarments, aprons, masquerade costumes, masquerade costumes with masks sold in connection therewith, tank tops, underwear, and wristbands.

RESPONSE TO REQUEST NO. 3:

Applicant objects to this Request as unduly burdensome in that it seeks information that is on the public record, and therefore already within the possession of or available to Opposer.

Applicant further objects to this Request as calling for a legal conclusion, and as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 4:

Admit that TEAM SMITHEREEN SN 77581495 was ABANDONED because no Statement of Use filed for the goods: Toys and sporting goods, namely, play figures and

accessories therefor, action figures and accessories therefor, toy figures, electric action toys, mechanical action toys, dolls and accessories therefor, doll playsets, plush toys, stuffed toys, puppets, windup toys, board games, card games, dominoes, jigsaw puzzles, manipulative games, marbles, paddle ball games, yo-yo's, balloons, jump ropes, bubble making wands and solution sets, magic tricks, bath toys, play swimming pools, toy vehicles and accessories therefor, toy model hobby craft kits, toy banks, toy boxes, toy guns, toy holsters, toy archery bows and arrows, toy rockets, toy bucket and shovel sets, children's play cosmetics, baby rattles, baby multiple activity toys, toy construction blocks, musical toys, target games, action skill games, baseball bats, baseball gloves, flying disks, disc type toss toys, body boards, badminton sets, dart flights, golf club head covers, roller skates, skateboards, toy scooters, swim fins, swim floats for recreational use, pinball-type games, Christmas tree decorations, egg decorating kits, hand held units for playing electronic games, arcade game machines, arcade-type electronic video game machines, pinball machines, pinball-type game machines, stand-alone video game machines, LCD game machines, in-line skates, ride-on toys, toy swords, and playing cards; Toys and sporting goods, namely, kites and accessories therefor, namely, kite boards, kite handles, kite string, kite tails and kite reels; Toys and sporting goods, namely, balls, namely, baseballs, basketballs, footballs, golf balls, tennis balls, playground balls, sport balls, soccer balls, volleyballs, rubber balls, foam rubber balls, and beach balls; Toys and sporting goods, namely, costume face masks, paper face masks, and face masks for football.

RESPONSE TO REQUEST NO. 4:

Applicant objects to this Request as unduly burdensome in that it seeks information that is on the public record, and therefore already within the possession of or available to Opposer.

Applicant further objects to this Request as calling for a legal conclusion, and as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 5:

Admit that the Copyright date on Exhibit B
wildbrain.com/press/releases/WB_new_funding.html downloaded on 11/11/13 is 2008.

RESPONSE TO REQUEST NO. 5:

Applicant cannot respond to this Request because Opposer has failed to provide the exhibit referred to therein.

REQUEST NO. 6:

Admit that the copyright date on Exhibit C dated June 1, 2011 from http://wildbrain.com/press/articles/globallicense_0611.html downloaded on 11/11/13 is 2008.

RESPONSE TO REQUEST NO. 6:

Applicant cannot respond to this Request because Opposer has failed to provide the exhibit referred to therein.

REQUEST NO. 7:

Admit that the Wild Brain has not abandoned their web site even though two pages show a copyright date of 2008.

RESPONSE TO REQUEST NO. 7:

Applicant objects to this Request as vague. Applicant further objects to the supposition built into the question. Applicant further objects to this Request as unduly burdensome in that it seeks information that is on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Applicant avers that it has not abandoned its <http://www.wildbrain.com> website.

REQUEST NO. 8:

Admit that more than half of the trademark applications filed by Wild Brain have gone abandoned with no statement of use ever filed.

RESPONSE TO REQUEST NO. 8:

Applicant objects to this Request as vague. Applicant further objects to this Request as unduly burdensome in that it seeks information that is on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as

calling for a legal conclusion, and as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 9:

Admit that half of the trademark applications for DIZZY filed by Wild Brain have gone abandoned with no statement of use ever filed.

RESPONSE TO REQUEST NO. 9:

Applicant objects to this Request as unduly burdensome in that it seeks information that is on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as calling for a legal conclusion, and as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 10:

Admit that for Wild Brain 1(b) application UMIGO SN 85179735 most of the goods in the application never registered.

RESPONSE TO REQUEST NO. 10:

Applicant objects to this Request as unduly burdensome in that it seeks information that is on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 11:

Admit that when Wild Brain submitted their application for DIZZY in IC 9 it had no projected first use date for hand held units for playing electronic games for use with external display screen or monitor.

RESPONSE TO REQUEST NO. 11:

Subject to, and without waiver of, the foregoing general objections, admitted.

REQUEST NO. 12:

Admit that when Wild Brain submitted their application for DIZZY in IC 9 that it had no licensee contracts for hand held units for playing electronic games for use with external display screen or monitor.

RESPONSE TO REQUEST NO. 12:

Subject to, and without waiver of, the foregoing general objections, admitted.

REQUEST NO. 13:

Admit that when Wild Brain submitted their application for DIZZY in IC 9 that it had no projected retail or wholesale prices for hand held units for playing electronic games for use with external display screen or monitor.

RESPONSE TO REQUEST NO. 13:

Subject to, and without waiver of, the foregoing general objections, admitted.

REQUEST NO. 14:

Admit that when Wild Brain submitted their application for DIZZY in IC 9 that it had manufacturing or distributing plans for hand held units for playing electronic games for use with external display screen or monitor.

RESPONSE TO REQUEST NO. 14:

Subject to, and without waiver of, the foregoing general objections, admitted.

REQUEST NO. 15:

Admit that when Wild Brain submitted their application for DIZZY SN 85509933 had no projected first use date for Christmas tree decorations.

RESPONSE TO REQUEST NO. 15:

Applicant objects to this Request as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably

calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 16:

Admit that when Wild Brain submitted their application for DIZZY SN 85509933 that it had no licensee contracts for Christmas tree decorations.

RESPONSE TO REQUEST NO. 16:

Applicant objects to this Request as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 17:

Admit that when Wild Brain submitted their application for DIZZY SN 85509933 that it had no projected retail or wholesale prices for Christmas tree decorations.

RESPONSE TO REQUEST NO. 17:

Applicant objects to this Request as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 18:

Admit that when Wild Brain submitted their application for DIZZY SN 85509933 that it had manufacturing or distributing plans for Christmas tree decorations.

RESPONSE TO REQUEST NO. 18:

Applicant objects to this Request as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably

calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 19:

Admit that when Wild Brain submitted their application for DIZZY SN 85509926 had no projected first use date for paper towels.

RESPONSE TO REQUEST NO. 19:

Applicant objects to this Request as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 20:

Admit that when Wild Brain submitted their application for DIZZY SN 85509926 that it had no licensee contracts for paper towels.

RESPONSE TO REQUEST NO. 20:

Applicant objects to this Request as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 21:

Admit that when Wild Brain submitted their application for DIZZY SN 85509926 that it had no projected retail or wholesale prices for paper towels.

RESPONSE TO REQUEST NO. 21:

Applicant objects to this Request as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably

calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 22:

Admit that when Wild Brain submitted their application for DIZZY SN 85509926 that it had manufacturing or distributing plans for paper towels.

RESPONSE TO REQUEST NO. 22:

Applicant objects to this Request as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 23:

Admit that when Wild Brain submitted their application for DIZZY SN 85509926 that it had no firm plans for marketing and selling more than half of the goods in the application.

RESPONSE TO REQUEST NO. 23:

Applicant further objects to this Request on the ground that the phrase “firm plans” is vague and ambiguous. Applicant further objects to this Request as seeking information which is neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 24:

Admit that when Wild Brain submitted their application for DIZZY SN 85509933 that it had no firm plans for marketing and selling more than half of the goods in the application.

RESPONSE TO REQUEST NO. 24:

Applicant further objects to this Request on the ground that the phrase “firm plans” is vague and ambiguous. Applicant further objects to this Request as seeking information which is

neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 25:

Admit that when Wild Brain submitted their application for DIZZY in IC 9 that it had no firm plans for marketing and selling more than half of the goods in the application.

RESPONSE TO REQUEST NO. 25:

Applicant objects to this Request on the ground that the phrase “firm plans” is vague and ambiguous.

REQUEST NO. 26:

Admit that Wild Brain has a cartoon online with a character called DIZZY.

RESPONSE TO REQUEST NO. 25:

Applicant objects to this Request as unduly burdensome in that it seeks information that is on the public record, and therefore already within the possession of or available to Opposer.

Subject to, and without waiver of, the foregoing general and specific objections, admitted.

Dated: January 9, 2014

KENYON & KENYON LLP

*Attorneys for Applicant
Wild Brain Entertainment, Inc.*



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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the *Applicant Wild Brain Entertainment, Inc.'s Responses to Opposer Beau L. Tardy's First Set of Requests for Admission* were served by electronic mail, as agreed upon by the parties, on Opposer's counsel of record on the 9th day of January, 2014, at the following address of record:

Wendy Peterson
Not Just Patents LLC
P.O. Box 18716
Minneapolis, Minnesota 55418
wsp@njpls.com



Natasha Sardesai-Grant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Application No. : 85/509,929
Applicant : Wild Brain Entertainment, Inc.
Mark : DIZZY
Filed : January 5, 2012
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BEAU L. TARDY,

Opposer,

v.

WILD BRAIN ENTERTAINMENT, INC.,

Applicant.

Opposition No.: 91/205,896

Mark: DIZZY

**APPLICANT WILD BRAIN ENTERTAINMENT, INC.'S RESPONSES TO OPPOSER
BEAU L. TARDY'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

Wild Brain Entertainment, Inc. ("Applicant"), by its undersigned counsel, hereby objects and responds to Opposer Beau L. Tardy's ("Opposer") First Set of Requests (the "Requests," also referred to individually as "Request"), pursuant to Rule 34 of the Federal Rules of Civil Procedure and Section 2.120 of the Trademark Rules of Practice of the United States Patent and Trademark Office.

Applicant's responses are based upon the best information presently available to Applicant and within Applicant's possession, custody, or control. Where Applicant does not have information, response to any Request shall not be deemed to constitute an admission of any kind, that any responsive information does not exist, and/or that any statement or characterization in such response is complete. These responses are given without prejudice to

further revision or supplementation of these responses by Applicant if further discovery or investigation so requires. These objections and responses are also provided without prejudice to any right of Applicant to offer evidence on its behalf or to object to the relevance, competence, or admissibility on any ground of any evidence or witness offered by Opposer. Accordingly, Applicant reserves the right to rely, at the time of taking testimony or in other proceedings in this opposition, upon documents and evidence in addition to the material or information produced in response to these Requests, regardless of whether any such material or information is newly discovered or is presently in existence but not as yet located and produced despite diligent and good faith efforts.

GENERAL OBJECTIONS

The General Objections contained in *Wild Brain Entertainment, Inc. 's Responses to Opposer Beau L. Tardy's First Set of Requests for Admission* are hereby incorporated by reference, as if repeated in full herein.

RESPONSES AND SPECIFIC OBJECTIONS

REQUEST NO. 1:

If your response to Request for Admission No. 1 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 1:

Applicant objects to this Request as unduly burdensome in that it seeks documents that are on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 2:

If your response to Request for Admission No. 2 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 2:

Applicant objects to this Request as unduly burdensome in that it seeks documents that are on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 3:

If your response to Request for Admission No. 3 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 3:

Applicant objects to this Request as unduly burdensome in that it seeks documents that are on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 4:

If your response to Request for Admission No. 4 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 4:

Applicant objects to this Request as unduly burdensome in that it seeks documents that are on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as seeking documents which are neither relevant to the

claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 5:

If your response to Request for Admission No. 5 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 5:

See response to Request for Admission No. 5.

REQUEST NO. 6:

If your response to Request for Admission No. 6 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 6:

See response to Request for Admission No. 6.

REQUEST NO. 7:

If your response to Request for Admission No. 7 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 7:

Not applicable.

REQUEST NO. 8:

If your response to Request for Admission No. 8 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 8:

Applicant objects to this Request as unduly burdensome in that it seeks documents that are on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 9:

If your response to Request for Admission No. 9 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 9:

Applicant objects to this Request as unduly burdensome in that it seeks documents that are on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 10:

If your response to Request for Admission No. 10 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 10:

Applicant objects to this Request as unduly burdensome in that it seeks documents that are on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 11:

If your response to Request for Admission No. 11 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 11:

Not applicable.

REQUEST NO. 12:

If your response to Request for Admission No. 12 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 12:

Not applicable.

REQUEST NO. 13:

If your response to Request for Admission No. 13 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 13:

Not applicable.

REQUEST NO. 14:

If your response to Request for Admission No. 14 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 14:

Not applicable.

REQUEST NO. 15:

If your response to Request for Admission No. 15 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 15:

Applicant objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 16:

If your response to Request for Admission No. 16 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 16:

Applicant objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably

calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 17:

If your response to Request for Admission No. 17 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 17:

Applicant objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 18:

If your response to Request for Admission No. 18 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 18:

Applicant objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 19:

If your response to Request for Admission No. 19 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 19:

Applicant objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably

calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 20:

If your response to Request for Admission No. 20 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 20:

Applicant objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 21:

If your response to Request for Admission No. 21 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 21:

Applicant objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 22:

If your response to Request for Admission No. 22 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 22:

Applicant objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably

calculated to lead to the discovery of admissible evidence. For this reason, the Request is unduly burdensome.

REQUEST NO. 23:

If your response to Request for Admission No. 23 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 23:

Applicant objects to this Request on the ground that the phrase “firm plans” is vague and ambiguous. Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 24:

If your response to Request for Admission No. 24 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 24:

Applicant objects to this Request on the ground that the phrase “firm plans” is vague and ambiguous. Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

REQUEST NO. 25:

If your response to Request for Admission No. 25 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 25:

Applicant objects to this Request on the ground that the phrase “firm plans” is vague and ambiguous.

REQUEST NO. 26:

If your response to Request for Admission No. 26 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

RESPONSE TO REQUEST NO. 26:

Not applicable.

Dated: January 9, 2014

KENYON & KENYON LLP

*Attorneys for Applicant
Wild Brain Entertainment, Inc.*



Jonathan D. Reichman
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tmdocketny@kenyon.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the *Applicant Wild Brain Entertainment, Inc.'s Responses to Opposer Beau L. Tardy's First Set of Requests for Production of Documents and Things* were served by electronic mail, as agreed upon by the parties, on Opposer's counsel of record on the 9th day of January, 2014, at the following address of record:

Wendy Peterson
Not Just Patents LLC
P.O. Box 18716
Minneapolis, Minnesota 55418
wsp@njpls.com



Natasha Sardesai-Grant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BEAU L. TARDY,

Opposer,

v.

WILD BRAIN ENTERTAINMENT, INC.,

Applicant.

Opposition No.: 91/205,896

Mark: DIZZY

**APPLICANT WILD BRAIN ENTERTAINMENT, INC.'S RESPONSES TO
OPPOSER BEAU L. TARDY'S AMENDED REQUESTS FOR ADMISSION**

Wild Brain Entertainment, Inc. ("Applicant"), by its undersigned counsel, hereby objects and responds to Opposer Beau L. Tardy's ("Opposer") Amended Requests for Admission (the "Requests," also referred to individually as "Request"), pursuant to Rule 36 of the Federal Rules of Civil Procedure and Section 407 of the Trademark Trial and Appeal Board Manual of Board Procedure.

Applicant's responses are based upon the best information presently available to Applicant and within Applicant's possession, custody, or control. Where Applicant does not have information, response to any Request shall not be deemed to constitute an admission of any kind, that any responsive information does not exist, and/or that any statement or characterization in such response is complete. These responses are given without prejudice to further revision or supplementation of these responses by Applicant if further discovery or investigation so requires. These objections and responses are also provided without prejudice to any right of Applicant to offer evidence on its behalf or to object to the relevance, competence, or admissibility on any ground of any evidence or witness offered by Opposer.

GENERAL OBJECTIONS

The General Objections contained in *Wild Brain Entertainment, Inc.'s Responses to Opposer Beau L. Tardy's First Set of Requests for Admission* are hereby incorporated by reference, as if repeated in full herein.

RESPONSES AND SPECIFIC OBJECTIONS

AMENDED REQUEST NO. 8:

Admit that half of the trademark applications filed by Wild Brain have gone abandoned with no statement of use ever filed.

RESPONSE TO AMENDED REQUEST NO. 8:

Applicant objects to this Request as vague as well as unduly burdensome in that it seeks documents that are on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Applicant admits only that over the past nineteen years it has filed thirty-six trademark applications that cover twelve different marks (or formatives thereof) for various goods and services. It has been awarded trademark registrations with respect to six of those marks (comprising a total of ten registrations) and it has an application pending for a seventh mark. Twenty-two applications were deemed by the Trademark Office to have been abandoned after no Statements of Use or Extension Requests were filed after the Notices of Allowance was issued, and three further applications were considered abandoned for other reasons. Of the twenty-two application that were declared abandoned after the issuance of a Notice of Allowance, eleven

related to either to marks (or formative thereof) for which a registration ultimately issued off of a separate application or for which there is presently a pending “live” application.

AMENDED REQUEST NO. 9:

Admit that half of the trademark applications for DIZZY filed by Wild Brain have gone abandoned with no statement of use ever filed.

RESPONSE TO AMENDED REQUEST NO. 9:

Applicant objects to this Request as vague as well as unduly burdensome in that it seeks documents that are on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Applicant admits that its applications to register the DIZZY mark in classes 16, 25, 28, which applications were filed concurrently with its application to register DIZZY in class 9, were deemed by the Trademark Office to have been abandoned after no Statements of Use or Extension Requests were filed after the Notices of Allowance were issued.

AMENDED REQUEST NO. 10:

Admit that for Wild Brain 1(b) application UMIGO SN 85179735 half of the goods in the application never registered.

RESPONSE TO AMENDED REQUEST NO. 10:

Applicant objects to this Request as unduly burdensome in that it seeks documents that are on the public record, and therefore already within the possession of or available to Opposer. Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Applicant admits that, per the public records of the United States Patent and Trademark Office, the recitation of goods and services in the above referenced trademark application was duly amended on May 3, 2013 in conformance with Applicant's statement of use pursuant to 15 U.S.C. § 1051(d), and the number of goods recited in the registration was half the number recited in the original application.

AMENDED REQUEST NO. 23:

Admit that when Wild Brain submitted their application for DIZZY SN 85509926 that it had no documentary evidence showing plans for marketing and selling all of the goods in the application.

RESPONSE TO AMENDED REQUEST NO. 23:

Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, denied.

AMENDED REQUEST NO. 24:

Admit that when Wild Brain submitted their application for DIZZY SN 85509933 that it had no documentary evidence showing plans for marketing and selling all of the goods in the application.

RESPONSE TO AMENDED REQUEST NO. 24:

Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, denied.

AMENDED REQUEST NO. 25:

Admit that when Wild Brain submitted their application for DIZZY in IC 9 that it had no documentary evidence showing plans for marketing and selling all of the goods in the application.

RESPONSE TO AMENDED REQUEST NO. 25:

Applicant further objects to this Request as seeking documents which are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, denied.

Dated: February 12, 2014

KENYON & KENYON LLP

*Attorneys for Applicant
Wild Brain Entertainment, Inc.*



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nsardesai@kenyon.com
tmdocketny@kenyon.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of *Wild Brain Entertainment, Inc.'s Responses to Beau L. Tardy's Amended Requests for Admission* was served by electronic mail, as agreed upon by the parties, on Opposer's counsel of record on the 12th day of February, 2014, at the following address of record:

Wendy Peterson
Not Just Patents LLC
P.O. Box 18716
Minneapolis, Minnesota 55418
wsp@njpls.com



Natasha Sardesai-Grant

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

BEAU L. TARDY,

Opposer,

v.

WILD BRAIN ENTERTAINMENT, INC.,

Applicant.

Opposition No.: 91/205,896

Mark: DIZZY

**WILD BRAIN ENTERTAINMENT, INC.’S SUPPLEMENTAL RESPONSES TO
BEAU L. TARDY’S REQUESTS FOR PRODUCTION OF DOCUMENTS AND THINGS**

Wild Brain Entertainment, Inc. (“Applicant”), by its undersigned counsel, hereby objects and responds to Opposer Beau L. Tardy’s (“Opposer”) Requests for Production of Documents and Things (the “Requests,” also referred to individually as “Request”), pursuant to Rule 34 of the Federal Rules of Civil Procedure and Section 2.120 of the Trademark Rules of Practice of the United States Patent and Trademark Office.

Applicant’s responses are based upon the best information presently available to Applicant and within Applicant’s possession, custody, or control. Where Applicant does not have information, response to any Request shall not be deemed to constitute an admission of any kind, that any responsive information does not exist, and/or that any statement or characterization in such response is complete. These responses are given without prejudice to further revision or supplementation of these responses by Applicant if further discovery or investigation so requires. These objections and responses are also provided without prejudice to any right of Applicant to offer evidence on its behalf or to object to the relevance, competence, or admissibility on any ground of any evidence or witness offered by Opposer. Accordingly,

Applicant reserves the right to rely, at the time of taking testimony or in other proceedings in this opposition, upon documents and evidence in addition to the material or information produced in response to these Requests, regardless of whether any such material or information is newly discovered or is presently in existence but not as yet located and produced despite diligent and good faith efforts.

GENERAL OBJECTIONS

The General Objections contained in *Wild Brain Entertainment, Inc.'s Responses to Opposer Beau L. Tardy's First Set of Requests for Admission* are hereby incorporated by reference, as if repeated in full herein.

RESPONSES AND SPECIFIC OBJECTIONS

REQUEST NO. 8:

If your response to Request for Admission No. 8 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

SUPPLEMENTAL RESPONSE TO REQUEST NO. 8:

Not applicable.

REQUEST NO. 9:

If your response to Request for Admission No. 9 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

SUPPLEMENTAL RESPONSE TO REQUEST NO. 9:

Not applicable.

REQUEST NO. 10:

If your response to Request for Admission No. 10 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

SUPPLEMENTAL RESPONSE TO REQUEST NO. 10:

Not applicable.

REQUEST NO. 23:

If your response to Request for Admission No. 23 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

SUPPLEMENTAL RESPONSE TO REQUEST NO. 23:

Applicant further objects to this Request as vague as well as on the grounds that it seeks documents that are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Applicant will make available for inspection and copying non-privileged documents (if any) responsive to a reasonable interpretation of this request.

REQUEST NO. 24:

If your response to Request for Admission No. 24 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

SUPPLEMENTAL RESPONSE TO REQUEST NO. 24:

Applicant further objects to this Request as vague as well as on the grounds that it seeks documents that are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Applicant will make available for inspection and copying non-privileged documents (if any) responsive to a reasonable interpretation of this request.

REQUEST NO. 25:

If your response to Request for Admission No. 25 served concurrently is anything other than an unqualified admission, produce all documents supporting your response.

SUPPLEMENTAL RESPONSE TO REQUEST NO. 25:

Applicant further objects to this Request as vague and on the grounds that it seeks documents that are neither relevant to the claim or defense of any party or the subject matter involved in this opposition, nor reasonably calculated to lead to the discovery of admissible evidence.

Subject to, and without waiver of, the foregoing general and specific objections, Applicant will make available for inspection and copying non-privileged documents (if any) responsive to a reasonable interpretation of this request.

Dated: February 12, 2014

KENYON & KENYON LLP

*Attorneys for Applicant
Wild Brain Entertainment, Inc.*



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tmdocketny@kenyon.com

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of *Wild Brain Entertainment, Inc.'s Supplemental Responses to Opposer Beau L. Tardy's Requests for Production of Documents and Things* was served by electronic mail, as agreed upon by the parties, on Opposer's counsel of record on the 12th day of February, 2014, at the following address of record:

Wendy Peterson
Not Just Patents LLC
P.O. Box 18716
Minneapolis, Minnesota 55418
wsp@njpls.com



Natasha Sardesai-Grant

Exhibit 7

[STATUS](#)[DOCUMENTS](#)[Back to Search](#)[Print](#)

Generated on: This page was generated by TSDR on 2015-02-09 18:16:46 EST

Mark: DIZZY

DIZZY

US Serial Number: 85509926

Application Filing Date: Jan. 05, 2012

Register: Principal

Mark Type: Trademark

Status: Abandoned because no Statement of Use or Extension Request timely filed after Notice of Allowance. For more information on this status, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Sep. 02, 2013

Publication Date: Jun. 05, 2012

Notice of Allowance Date: Jul. 31, 2012

Date Abandoned: Sep. 02, 2013

Mark Information

Mark Literal Elements: DIZZY

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis ((..)) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Paper goods and printed matter, namely, a series of fiction books featuring stories in the field of collectors cards; comic books and magazines in the field of children's education; graphic novels; postcards; comic postcards; postcards; notebooks; binders; decals; stickers; posters; photograph greeting cards; folders; desk pads; writing pads; stationery folders and stationery; pens; pencils; erasers and books; computer game instruction manuals; paper towels; paper storage containers; chalk boards; writing surfaces; paper flags; paper pennants

International Class(es): 016 - Primary Class

U.S Class(es): 002, 005, 021

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No**Currently Use:** No**Filed ITU:** Yes**Currently ITU:** Yes**Filed 44D:** No**Currently 44D:** No**Filed 44E:** No**Currently 44E:** No**Filed 66A:** No**Currently 66A:** No**Filed No Basis:** No**Currently No Basis:** No

Current Owner(s) Information

Owner Name: Wild Brain Entertainment, Inc.

Owner Address: 15000 Ventura Blvd, 3rd Fl
 Sherman Oaks, CALIFORNIA 91403
 UNITED STATES

Legal Entity Type: CORPORATION

State or Country Where DELAWARE
Organized:

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Katherine L. McDaniel**Docket Number:** UMIGO-8742

Correspondent

Correspondent KATHERINE L. MCDANIEL
Name/Address: FULWIDER PATTON LLP
 6060 CENTER DR FL 10
 LOS ANGELES, CALIFORNIA 90045-1598
 UNITED STATES

Phone: (310) 242-2689

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Sep. 03, 2013	ABANDONMENT NOTICE MAILED - NO USE STATEMENT FILED	
Sep. 02, 2013	ABANDONMENT - NO USE STATEMENT FILED	99999
Jan. 31, 2013	NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED	
Jan. 29, 2013	EXTENSION 1 GRANTED	98765
Jan. 29, 2013	EXTENSION 1 FILED	98765
Jan. 29, 2013	TEAS EXTENSION RECEIVED	
Jul. 31, 2012	NOA MAILED - SOU REQUIRED FROM APPLICANT	

Jun. 05, 2012	PUBLISHED FOR OPPOSITION	
May 16, 2012	NOTICE OF PUBLICATION	
May 02, 2012	LAW OFFICE PUBLICATION REVIEW COMPLETED	68171
May 01, 2012	ASSIGNED TO LIE	68171
Apr. 11, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 11, 2012	EXAMINER'S AMENDMENT MAILED	
Apr. 10, 2012	EXAMINER'S AMENDMENT ENTERED	88888
Apr. 10, 2012	EXAMINERS AMENDMENT -WRITTEN	83222
Apr. 10, 2012	ASSIGNED TO EXAMINER	83222
Jan. 11, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jan. 09, 2012	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: CHUO, EMILY M

Law Office Assigned: LAW OFFICE

File Location

Current Location: INTENT TO USE SECTION

Date in Location: Jul. 31, 2012

[Assignment Abstract Of Title Information - Click to Load](#)

[Proceedings - Click to Load](#)

[STATUS](#)[DOCUMENTS](#)[Back to Search](#)[Print](#)

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Mark: DIZZY

DIZZY

US Serial Number: 85509930

Application Filing Date: Jan. 05, 2012

Register: Principal

Mark Type: Trademark

Status: Abandoned because no Statement of Use or Extension Request timely filed after Notice of Allowance. For more information on this status, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Dec. 23, 2013

Publication Date: Mar. 26, 2013

Notice of Allowance Date: May 21, 2013

Date Abandoned: Dec. 23, 2013

Mark Information

Mark Literal Elements: DIZZY

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Clothing, namely, shirts, t-shirts, sweatshirts, sweaters, vests, jackets, warm-up suits, robes, pants, overalls, infantwear, playsuits, cloth bibs, headwear, footwear, boots, socks, tights, beachwear, swimwear, tennis wear, rainwear, coats, gloves, mufflers, hats, sun visors, neckwear, cummerbunds, bandanas, nightgowns, undergarments, aprons, masquerade costumes, masquerade costumes with masks, tops, underwear, and wristbands, all in the field of character merchandise/children's entertainment.

International Class(es): 025 - Primary Class

U.S Class(es): 022, 039

Class Status: ACTIVE

Basis: 1(b)

Basis Information (Case Level)

Filed Use: No

Currently Use: No

Filed ITU: Yes	Currently ITU: Yes
Filed 44D: No	Currently 44D: No
Filed 44E: No	Currently 44E: No
Filed 66A: No	Currently 66A: No
Filed No Basis: No	Currently No Basis: No

Current Owner(s) Information

Owner Name: Wild Brain Entertainment, Inc.

Owner Address: 15000 Ventura Blvd, 3rd Fl
Sherman Oaks, CALIFORNIA 91403
UNITED STATES

Legal Entity Type: CORPORATION **State or Country Where Organized:** DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Katherine L. McDaniel **Docket Number:** UMIGO-8742

Correspondent

Correspondent Name/Address: KATHERINE L MCDANIEL
FULWIDER PATTON LLP
6060 CENTER DRIVE
10TH FLOOR
LOS ANGELES, CALIFORNIA 90045 1598
UNITED STATES

Phone: (310) 242-2689

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Nov. 19, 2014	ASSIGNMENT OF OWNERSHIP NOT UPDATED AUTOMATICALLY	
Dec. 23, 2013	ABANDONMENT NOTICE MAILED - NO USE STATEMENT FILED	
Dec. 23, 2013	ABANDONMENT - NO USE STATEMENT FILED	99999
May 21, 2013	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Mar. 26, 2013	PUBLISHED FOR OPPOSITION	
Mar. 06, 2013	NOTICE OF PUBLICATION	
Feb. 19, 2013	PAPER RECEIVED	

Feb. 19, 2013	TTAB RELEASE CASE TO TRADEMARKS	207309
Feb. 19, 2013	OPPOSITION TERMINATED NO. 999999	207309
Feb. 19, 2013	OPPOSITION DISMISSED NO. 999999	207309
Oct. 04, 2012	OPPOSITION INSTITUTED NO. 999999	207309
Jun. 11, 2012	EXTENSION OF TIME TO OPPOSE RECEIVED	
Jun. 05, 2012	PUBLISHED FOR OPPOSITION	
May 16, 2012	NOTICE OF PUBLICATION	
May 02, 2012	LAW OFFICE PUBLICATION REVIEW COMPLETED	68171
May 01, 2012	ASSIGNED TO LIE	68171
Apr. 11, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 11, 2012	EXAMINER'S AMENDMENT MAILED	
Apr. 10, 2012	EXAMINER'S AMENDMENT ENTERED	88888
Apr. 10, 2012	EXAMINERS AMENDMENT -WRITTEN	83222
Apr. 10, 2012	ASSIGNED TO EXAMINER	83222
Jan. 11, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jan. 09, 2012	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: CHUO, EMILY M

Law Office Assigned: LAW OFFICE

File Location

Current Location: INTENT TO USE SECTION

Date in Location: May 21, 2013

Assignment Abstract Of Title Information - Click to Load

Proceedings - Click to Load

[STATUS](#)[DOCUMENTS](#)[Back to Search](#)[Print](#)

Generated on: This page was generated by TSDR on 2015-02-09 18:18:00 EST

Mark: DIZZY

DIZZY

US Serial Number: 85509933

Application Filing Date: Jan. 05, 2012

Register: Principal

Mark Type: Trademark

Status: Abandoned because no Statement of Use or Extension Request timely filed after Notice of Allowance. For more information on this status, click on the Trademark Document Retrieval link at the top of this page.

Status Date: Sep. 02, 2013

Publication Date: Jun. 05, 2012

Notice of Allowance Date: Jul. 31, 2012

Date Abandoned: Sep. 02, 2013

Mark Information

Mark Literal Elements: DIZZY

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Toys, games and sporting goods, namely, board games, card games, play figures and accessories therefor, toy figures, electric action toys, mechanical action toys, dolls and accessories therefor, stuffed toys, puppets, windup toys, dominoes, jigsaw puzzles, manipulative games, marbles, padlocks, jump ropes, kites and accessories therefor, namely, kite boards, kite handles, kite string, kite tails and solution sets, magic tricks, bath toys, play swimming pools, toy vehicles and accessories therefor, banks, toy boxes, toy guns, toy holsters, toy archery bows and arrows, toy rockets, toy bucket and cosmetics, baby rattles, baby multiple activity toys, toy construction blocks, musical toys, target games, namely, baseballs, basketballs, footballs, golf balls, tennis balls, playground balls, sport balls, soft foam rubber balls, baseball bats, baseball gloves, flying disks, disc type toss toys, body boards, beach head covers, roller skates, skateboards, toy scooters, swim fins, swim floats for recreational use, inflatable Christmas tree decorations, egg decorating kits, hand held units for playing electronic games other than external display screen or monitor, arcade game machines, arcade-type electronic video game machines, type game machines, stand-alone video game machines, LCD game machines, beach balls, inflatable and playing cards

International Class(es): 028 - Primary Class**U.S Class(es):** 022, 023, 031**Class Status:** ACTIVE**Basis:** 1(b)

Basis Information (Case Level)

Filed Use: No**Currently Use:** No**Filed ITU:** Yes**Currently ITU:** Yes**Filed 44D:** No**Currently 44D:** No**Filed 44E:** No**Currently 44E:** No**Filed 66A:** No**Currently 66A:** No**Filed No Basis:** No**Currently No Basis:** No

Current Owner(s) Information

Owner Name: Wild Brain Entertainment, Inc.**Owner Address:** 15000 Ventura Blvd, 3rd Fl
Sherman Oaks, CALIFORNIA 91403
UNITED STATES**Legal Entity Type:** CORPORATION**State or Country Where
Organized:** DELAWARE

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Katherine L. McDaniel**Docket Number:** UMIGO-8742

Correspondent

Correspondent Name/Address: KATHERINE L. MCDANIEL
FULWIDER PATTON LLP
6060 CENTER DR FL 10
LOS ANGELES, CALIFORNIA 90045-1598
UNITED STATES**Phone:** (310) 242-2689

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Sep. 03, 2013	ABANDONMENT NOTICE MAILED - NO USE STATEMENT FILED	
Sep. 02, 2013	ABANDONMENT - NO USE STATEMENT FILED	99999

Jan. 31, 2013	NOTICE OF APPROVAL OF EXTENSION REQUEST MAILED	
Jan. 29, 2013	EXTENSION 1 GRANTED	98765
Jan. 29, 2013	EXTENSION 1 FILED	98765
Jan. 29, 2013	TEAS EXTENSION RECEIVED	
Jul. 31, 2012	NOA MAILED - SOU REQUIRED FROM APPLICANT	
Jun. 05, 2012	PUBLISHED FOR OPPOSITION	
May 16, 2012	NOTICE OF PUBLICATION	
May 02, 2012	LAW OFFICE PUBLICATION REVIEW COMPLETED	68171
May 01, 2012	ASSIGNED TO LIE	68171
Apr. 11, 2012	APPROVED FOR PUB - PRINCIPAL REGISTER	
Apr. 11, 2012	EXAMINER'S AMENDMENT MAILED	
Apr. 10, 2012	EXAMINER'S AMENDMENT ENTERED	88888
Apr. 10, 2012	EXAMINERS AMENDMENT -WRITTEN	83222
Apr. 10, 2012	ASSIGNED TO EXAMINER	83222
Jan. 11, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Jan. 09, 2012	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: CHUO, EMILY M

Law Office Assigned: LAW OFFICE

File Location

Current Location: INTENT TO USE SECTION

Date in Location: Jul. 31, 2012

Assignment Abstract Of Title Information - Click to Load

Proceedings - Click to Load

Exhibit 8

To: Tardy, Beau (wsp@NJPLS.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85741800 - DIZZY - N/A
Sent: 2/1/2013 3:10:38 PM
Sent As: ECOM112@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 85741800

MARK: DIZZY

85741800

CORRESPONDENT ADDRESS:

WENDY PETERSON

NOT JUST PATENTS

PO BOX 18716

MINNEAPOLIS, MN 55418-0716

GENERAL TRADEMARK IN
<http://www.uspto.gov/trademark>

APPLICANT: Tardy, Beau

CORRESPONDENT'S REFERENCE/DOCKET NO :

N/A

CORRESPONDENT E-MAIL ADDRESS:

wsp@NJPLS.com

SUSPENSION NOTICE: NO RESPONSE NEEDED

ISSUE/MAILING DATE: 2/1/2013

The trademark examining attorney is suspending action on the application for the reason(s) stated below. *See* 37 C.F.R. §2.67; TMEP §§716 *et seq.*

The USPTO will periodically conduct a status check of the application to determine whether suspension remains appropriate, and the trademark examining attorney will issue as needed an inquiry letter to applicant regarding the status of the matter on which suspension is based. TMEP §§716.04, 716.05. Applicant will be notified when suspension is no longer appropriate. *See* TMEP §716.04.

No response to this notice is necessary; however, if applicant wants to respond, applicant should use the “Response to Suspension Inquiry or Letter of Suspension” form online at <http://teasroa.uspto.gov/rsi/rsi>.

PRIOR-FILED PENDING APPLICATION(S) FOUND: The trademark examining attorney has searched the USPTO’s database of registered and pending marks and has found no similar registered marks that would bar registration under Trademark Act Section 2(d). TMEP §704.02; *see* 15 U.S.C. §1052(d). However, a mark(s) in a prior-filed pending application(s) may present a bar to registration of applicant’s mark.

The effective filing date of the pending application(s) identified below precedes the filing date of applicant’s application. If the mark in the referenced application(s) registers, applicant’s mark may be refused registration under Section 2(d) because of a likelihood of confusion with that registered mark(s). *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, action on this application is suspended until the earlier-filed referenced application(s) is either registered or abandoned. 37 C.F.R. §2.83(c). A copy of information relevant to this referenced application(s) was sent previously.

- Application Serial No(s). 85509929

/Jay K Flowers/

United States Patent and Trademark Office

Trademark Examining Attorney

Law Office 112

571.272.8202

jay.flowers@uspto.gov

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the Trademark Electronic Application System (TEAS) form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

To: Tardy, Beau (wsp@NJPLS.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85741800 - DIZZY - N/A
Sent: 2/1/2013 3:10:39 PM
Sent As: ECOM112@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **2/1/2013** FOR U.S. APPLICATION SERIAL NO. 85741800

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov/>, enter the U.S. application serial number, and click on "Documents."

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

To: Tardy, Beau (wsp@NJPLS.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85741800 - DIZZY - N/A
Sent: 1/28/2013 12:36:35 PM
Sent As: ECOM112@USPTO.GOV
Attachments: [Attachment - 1](#)
[Attachment - 2](#)
[Attachment - 3](#)

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION

U.S. APPLICATION SERIAL NO. 85741800

MARK: DIZZY

85741800

CORRESPONDENT ADDRESS:

WENDY PETERSON

NOT JUST PATENTS

PO BOX 18716

MINNEAPOLIS, MN 55418-0716

CLICK HERE TO RESPOND TO

<http://www.uspto.gov/trademarks/teas/r>

APPLICANT: Tardy, Beau

CORRESPONDENT'S REFERENCE/DOCKET NO :

N/A

CORRESPONDENT E-MAIL ADDRESS:

wsp@NJPLS.com

OFFICE ACTION

STRICT DEADLINE TO RESPOND TO THIS LETTER

TO AVOID ABANDONMENT OF APPLICANT'S TRADEMARK APPLICATION, THE USPTO MUST RECEIVE APPLICANT'S COMPLETE RESPONSE TO THIS LETTER **WITHIN 6 MONTHS** OF THE ISSUE/MAILING DATE BELOW.

ISSUE/MAILING DATE: 1/28/2013

The assigned trademark examining attorney has reviewed the referenced application and has determined the following:

Prior Pending Application

The effective filing date of pending U.S. Application Serial No. 85509929 precedes applicant's filing date. See attached referenced application. If the mark in the referenced application registers, applicant's mark may be refused registration under Trademark Act Section 2(d) because of a likelihood of confusion between the two marks. *See* 15 U.S.C. §1052(d); 37 C.F.R. §2.83; TMEP §§1208 *et seq.* Therefore, upon receipt of applicant's response to this Office action, action on this application may be suspended pending final disposition of the earlier-filed referenced application.

In response to this Office action, applicant may present arguments in support of registration by addressing the issue of the potential conflict between applicant's mark and the mark in the referenced application. Applicant's election not to submit arguments at this time in no way limits applicant's right to address this issue later if a refusal under Section 2(d) issues.

Identification of Goods

The identification of goods is unacceptable as indefinite. The applicant must clarify the identification of goods by specifying what is meant by "Downloadable videos" because this wording is overly broad and requires greater specificity. *See* TMEP §1402.01.

Applicant may adopt the following identification(s), if accurate:

International Class 09: Digital materials, namely, CDs featuring television programs, cartoons, music in the field of entertainment; Digital media, namely, pre-recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video recordings, DVDs, and high definition digital discs featuring animation; Digital media, namely, DVDs, downloadable audio and video recordings, downloadable files featuring television programs, cartoons, music in the field of entertainment; Downloadable **video recordings** and downloadable audio visual recordings featuring television programs,

cartoons, music in the field of entertainment via the internet and wireless devices; Prerecorded digital video disks featuring television programs, cartoons, music in the field of entertainment; Prerecorded video cassettes featuring television programs, cartoons, music in the field of entertainment

For assistance with identifying and classifying goods in trademark applications, please see the online searchable *Manual of Acceptable Identifications of Goods and Services* at <http://tess2.uspto.gov/netahtml/tidm.html>. See TMEP §1402.04.

Identifications of goods can be amended only to clarify or limit the goods; adding to or broadening the scope of the goods is not permitted. 37 C.F.R. §2.71(a); see TMEP §§1402.06 *et seq.*, 1402.07. Therefore, applicant may not amend the identification to include goods that are not within the scope of the goods set forth in the present identification.

TEAS PLUS APPLICANTS MUST SUBMIT DOCUMENTS ELECTRONICALLY OR SUBMIT FEE: Applicants who filed their application online using the reduced-fee TEAS Plus application must continue to submit certain documents online using TEAS, including responses to Office actions. See 37 C.F.R. §2.23(a)(1). For a complete list of these documents, see TMEP §819.02(b). In addition, such applicants must accept correspondence from the Office via e-mail throughout the examination process and must maintain a valid e-mail address. 37 C.F.R. §2.23(a)(2); TMEP §§819, 819.02(a). TEAS Plus applicants who do not meet these requirements must submit an additional fee of \$50 per international class of goods and/or services. 37 C.F.R. §2.6(a)(1)(iv); TMEP §819.04. In appropriate situations and where all issues can be resolved by amendment, responding by telephone to authorize an examiner's amendment will not incur this additional fee.

/Jay K. Flowers/

United States Patent and Trademark Office

Trademark Examining Attorney

Law Office 112

571.272.8202

jay.flowers@uspto.gov

TO RESPOND TO THIS LETTER: Go to http://www.uspto.gov/trademarks/teas/response_forms.jsp. Please wait 48-72 hours from the issue/ mailing date before using the Trademark Electronic Application System (TEAS), to allow for necessary system updates of the application. For *technical* assistance with online forms, e-mail TEAS@uspto.gov. For questions about the Office action itself, please contact the assigned

trademark examining attorney. **E-mail communications will not be accepted as responses to Office actions; therefore, do not respond to this Office action by e-mail.**

All informal e-mail communications relevant to this application will be placed in the official application record.

WHO MUST SIGN THE RESPONSE: It must be personally signed by an individual applicant or someone with legal authority to bind an applicant (i.e., a corporate officer, a general partner, all joint applicants). If an applicant is represented by an attorney, the attorney must sign the response.

PERIODICALLY CHECK THE STATUS OF THE APPLICATION: To ensure that applicant does not miss crucial deadlines or official notices, check the status of the application every three to four months using the Trademark Status and Document Retrieval (TSDR) system at <http://tsdr.uspto.gov/>. Please keep a copy of the TSDR status screen. If the status shows no change for more than six months, contact the Trademark Assistance Center by e-mail at TrademarkAssistanceCenter@uspto.gov or call 1-800-786-9199. For more information on checking status, see <http://www.uspto.gov/trademarks/process/status/>.

TO UPDATE CORRESPONDENCE/E-MAIL ADDRESS: Use the TEAS form at <http://www.uspto.gov/trademarks/teas/correspondence.jsp>.

DESIGN MARK

Serial Number

85509929

Status

OPPOSITION PENDING

Word Mark

DIZZY

Standard Character Mark

Yes

Type of Mark

TRADEMARK

Register

PRINCIPAL

Mark Drawing Code

(4) STANDARD CHARACTER MARK

Owner

Wild Brain Entertainment, Inc. CORPORATION DELAWARE 15000 Ventura Blvd, 3rd Fl Sherman Oaks CALIFORNIA 91403

Goods/Services

Class Status -- ACTIVE. IC 009. US 021 023 026 036 038. G & S: Electrical and scientific apparatus, namely, electronic game software; computer game software; downloadable computer games; computer and video-game cassettes, cartridges, discs and programs; downloadable game software; motion picture films featuring music, animated cartoons, live-action performances and live action performances by costumed characters all in the field of children's education; pre-recorded video and audio cassettes, video and audio tapes, video and audio discs, CD ROMs, compact discs, digital versatile discs, musical video recordings, musical sound recordings and phonograph records featuring music, animated cartoons, live-action performances and live action performances by costumed characters all in the field of children's education; software and manuals sold as a unit in the field of children's education, namely, for use in creating, updating and maintaining calendars, for information management and for use as computer screen savers; decorative refrigerator magnets; hand held units for playing electronic games for use with external display screen or monitor.

Filing Date

2012/01/05

Examining Attorney

Print: Jan 28, 2013

85509929

CHUO, EMILY

Attorney of Record

Katherine L. McDaniel

DIZZY

To: Tardy, Beau (wsp@NJPLS.com)
Subject: U.S. TRADEMARK APPLICATION NO. 85741800 - DIZZY - N/A
Sent: 1/28/2013 12:36:36 PM
Sent As: ECOM112@USPTO.GOV
Attachments:

UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)

**IMPORTANT NOTICE REGARDING YOUR
U.S. TRADEMARK APPLICATION**

USPTO OFFICE ACTION (OFFICIAL LETTER) HAS ISSUED
ON **1/28/2013** FOR U.S. APPLICATION SERIAL NO. 85741800

Please follow the instructions below:

(1) TO READ THE LETTER: Click on this [link](#) or go to <http://tsdr.uspto.gov>, enter the U.S. application serial number, and click on “Documents.”

The Office action may not be immediately viewable, to allow for necessary system updates of the application, but will be available within 24 hours of this e-mail notification.

(2) TIMELY RESPONSE IS REQUIRED: Please carefully review the Office action to determine (1) how to respond, and (2) the applicable response time period. Your response deadline will be calculated from **1/28/2013** (*or sooner if specified in the Office action*). For information regarding response time periods, see <http://www.uspto.gov/trademarks/process/status/responsetime.jsp>.

Do NOT hit “Reply” to this e-mail notification, or otherwise e-mail your response because the USPTO does NOT accept e-mails as responses to Office actions. Instead, the USPTO recommends that you respond online using the Trademark Electronic Application System (TEAS) response form located at http://www.uspto.gov/trademarks/teas/response_forms.jsp.

(3) QUESTIONS: For questions about the contents of the Office action itself, please contact the assigned trademark examining attorney. For *technical* assistance in accessing or viewing the Office action in the Trademark Status and Document Retrieval (TSDR) system, please e-mail TSDR@uspto.gov.

WARNING

Failure to file the required response by the applicable response deadline will result in the ABANDONMENT of your application. For more information regarding abandonment, see <http://www.uspto.gov/trademarks/basics/abandon.jsp>.

PRIVATE COMPANY SOLICITATIONS REGARDING YOUR APPLICATION: Private companies **not** associated with the USPTO are using information provided in trademark applications to mail or e-mail trademark-related solicitations. These companies often use names that closely resemble the USPTO and their solicitations may look like an official government document. Many solicitations require that you pay “fees.”

Please carefully review all correspondence you receive regarding this application to make sure that you are responding to an official document from the USPTO rather than a private company solicitation. All official USPTO correspondence will be mailed only from the “United States Patent and Trademark Office” in Alexandria, VA; or sent by e-mail from the domain “@uspto.gov.” For more information on how to handle private company solicitations, see http://www.uspto.gov/trademarks/solicitation_warnings.jsp.

Jazzy Burn's

http://jazzyburns.bandcamp.com/

Google

Space Jazz©

by Jazzy Burn's

▶

Get With It "Live" 00:00 / 06:31

▶▶

Digital Album

Immediate download of 7-track album in your choice of MP3 320, FLAC, or just about any other format you could possibly desire.

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▶ 1. Get With It "Live" 06:31

▶ 2. Work 03:48

▶ 3. New York City "live" 16:39

▶ 4. TV'5 Red Piano Mix 04:33

▶ 5. Radio Tuvalu 10:47

▶ 6. Chasin' The Bump 02:47

▶ 7. Zahedan 11:22

As heard on Dizzy TV! This CD features some of the great Space Jazz© tracks by Jazzy Burn's played live on Dizzy TV.

released 23 May 2012

tags: electronic electro jazztronica spacejazz triphop New York

©

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📧

feeds for this album, this artist

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2

Jazzy Burn's is a mix of jazz, electro and funky beats. Jack Dangers of Meat Beat Manifesto selected a Jazzy Burn's track in ... more

SoundCloud

Facebook

YouTube

discography

Space Jazz©

May 2012

Colorbars

Sep 2011



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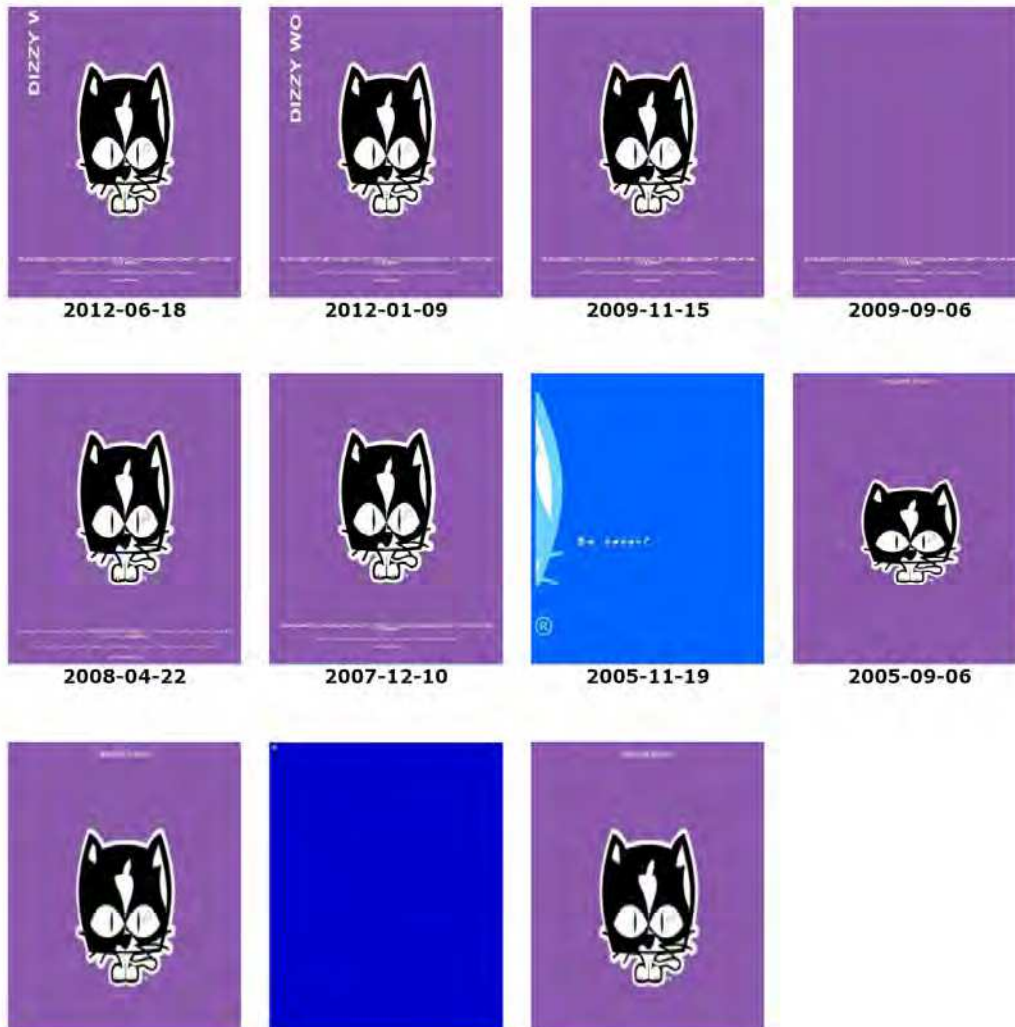
Screenshot History

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Screenshot Navigation

Domain: [Return to Whois Record](#)

Viewing Pages: 2 of 2




2005-02-09

2004-11-24


2004-07-01

Viewing Pages: 2 of 2

Site Profile

Website Title:  **** Dizzy Worldwide Productions****

Title Relevancy **33%**

AboutUs:  [Wiki article on Dizzythecat.com](#)

SEO Score: **72%**

Terms: **42** (Unique: 35, Linked: 2)

Images: **0** (Alt tags missing: 0)

Links: **1** (Internal: 1, Outbound: 0)


Similar Domains: [dizzyts.com](#), [dizzyworld.com](#), [dizzy sandals.com](#), [dizzystreet.com](#), [dizzytown.com](#), [dizzystuff.com](#), [dizzler.com](#), [dizzy sheep.com](#), [dizzy poker.com](#), [dizzywood.com](#), [dizzywold.com](#), [dizzyview.com](#), [dizypoint.com](#), [dizypom.com](#)

Wikipedia: [0 pages](#)

Server Type: Apache

IP Address: [184.173.233.189](#) [Reverse-IP](#) | [Ping](#) | [DNS Lookup](#) | [Traceroute](#)

ASN: **AS36351**

IP Location:  - Texas - Dallas - Theplanet.com Internet Services Inc.

Response Code: 200

Domain Status: **Registered And Active Website**

Wikipedia: [0 pages](#)

ICANN Registrar: **ENOM, INC.**

Created: 1998-01-06

Expires: **2013-01-05** [Backorder Now](#)


Updated: 2011-07-30

Registrar Status: [clientTransferProhibited](#)

Name Server: NS3027.HOSTGATOR.COM (has [2,128,015 domains](#))

NS3028.HOSTGATOR.COM (has [2,128,015 domains](#))

Whois Server: [whois.enom.com](#)

General TLDs: [DizzyTheCat.com](#)  (registered and active website)

[DizzyTheCat.net](#) ☐ (never registered before)

[DizzyTheCat.org](#) ☐ (never registered before)

[DizzyTheCat.info](#) ☐ (never registered before)

[DizzyTheCat.biz](#) ☐ (never registered before)

[DizzyTheCat.us](#) ☐ (never registered before)

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[Free Pet Exam Coupon](#) Get Your Coupon For A Free Exam And Consultation On Pet's First Visit! [Banfield.com](#)

[TV Parts At Part Store](#) Replacement TV Parts At PartStore™. Free Shipping On Orders \$75 & Up! [www.partstore.com](#)

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Screenshot History

Domain: dizzytv.com

Search

Image Size +

[Return to Whois Record](#)

Viewing Pages: 2 of 2



2008-06-16

2008-04-21

2008-01-24

2007-11-22



2006-11-04

Viewing Pages: 2 of 2

Site Profile

Website Title: [Dizzy TV on USTREAM: Dizzy™ TV is "live" Electronic Space Jazz™, Fast-Forward Free Style Future American Mythology for the Electronic Age™, Dimensional TV...](#)

Title Relevancy: **95%**

Meta Description: Dizzy TV @ USTREAM: Dizzy™ TV is "live" Electronic Space Jazz™, Fast-Forward Free Style Future American Mythology for the Electronic Age™, Dimensional TV...

Description Relevancy: **100%** relevant.

AboutUs: [Wiki article on Dizzytv.com](#)

SEO Score: **96%**

Terms: **591** (Unique: 314, Linked: 150)

Images: **9** (Alt tags missing: 2)

Links: **78** (Internal: 71, Outbound: 5)

iFrames: **5** (Parts of page not indexable by most search engines.)

Similar Domains: [dizzyts.com](#), [dizzyworld.com](#), [dizzysandals.com](#), [dizzystreet.com](#), [dizzytown.com](#), [dizzystuff.com](#), [dizzler.com](#), [dizzysheep.com](#), [dizzypoker.com](#), [dizzywood.com](#), [dizzywold.com](#), [dizzyview.com](#), [dizzypoint.com](#), [dizzyporn.com](#)

Wikipedia: [0 pages](#)

IP Address: [64.202.199.170](#) [Reverse-IP](#) | [Ping](#) | [DNS Lookup](#) | [Traceroute](#)

ASN: **AS26496**

IP Location: - New York - New York City - Godaddy.com Llc

Response Code: 200

Domain Status: **Registered And Active Website**

Wikipedia: [0 pages](#)

ICANN Registrar: **GODADDY.COM, LLC**

Created: 2006-06-07

Expires: **2013-06-07** [Backorder Now](#)

Updated: 2012-08-28

Registrar Status: [clientDeleteProhibited](#)
[clientRenewProhibited](#)
[clientTransferProhibited](#)
[clientUpdateProhibited](#)

Name Server: NS19.DOMAINCONTROL.COM (has [34,044,331 domains](#))
NS20.DOMAINCONTROL.COM (has [34,044,331 domains](#))

Whois Server: [whois.godaddy.com](#)

General TLDs: [DizzyTv.com](#) (registered and active website)
[DizzyTv.net](#) (never registered before)
[DizzyTv.org](#) (never registered before)
[DizzyTv.info](#) (never registered before)
[DizzyTv.biz](#) (never registered before)

vimeo

Join

Log in

Explore

Help

Search

S



Dizzy TV

Joined 1 year ago / World

Dizzy TV has not yet updated their profile

3 Follow

Send Message

Featured Videos



Hello Dizzy TV!

1 year ago



Dizzy TV ID

1 year ago

BROWSE & CONNECT

5 Videos



Click here to get closer to nature's greatest wonders

Malaysia's
Greatest Wonders

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DIZZY® THE CAT WITH THE TV HEAD

dizzy
worldwide ®

244 fifth ave.
#G-245

new york
ny 10002

usa+
(212) 254-1345

dizzy
@dizzythecat.com

DATE
2001

COMPANY
DIZZY WORLDWIDE ®

TITLE
COMMERCIALS

The phrase "the cat with the TV head"™ when used
in conjunction with the name "Dizzy" is a registered
trademark of Dizzy Worldwide ®

FORMAT
LENGTH
betaSP NTSC
6:00 mins



ガッパ

DIZZY WORLDWIDE ®. DO NOT
DUPLICATE WITHOUT WRITTEN
PERMISSION FROM DIZZY WORLDWIDE.
ALL RIGHTS RESERVED.
DIZZY © 2001

DESCRIPTION

CATALOG #

9999097543





DIZZY THE CAT

#1



MR. BIRD ©



BONGA ©



DIZZY ©

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1-800-441-1111 Fax: 800-441-1111
2001 St. James Ave. Princeton, NJ 08540 USA



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Generated on: This page was generated by TSDR on 2015-02-10 15:52:58 EST

Mark: DIZZY

DIZZY

US Serial Number: 85741800

Application Filing Date: Sep. 28, 2014

Filed as TEAS Plus: Yes

Currently TEAS Plus: Yes

Register: Principal

Mark Type: Trademark

Status: Suspension check completed. Application remains suspended.

Status Date: Feb. 05, 2015

Mark Information

Mark Literal Elements: DIZZY

Standard Character Claim: Yes. The mark consists of standard characters without claim to any particular font style, size, or color.

Mark Drawing Type: 4 - STANDARD CHARACTER MARK

Goods and Services

Note:

The following symbols indicate that the registrant/owner has amended the goods/services:

- Brackets [...] indicate deleted goods/services;
- Double parenthesis (()) identify any goods/services not claimed in a Section 15 affidavit of incontestability; and
- Asterisks *..* identify additional (new) wording in the goods/services.

For: Digital materials, namely, CDs featuring television programs, cartoons, music in the field of entertainment; recorded video cassettes, digital video discs, digital versatile discs, downloadable audio and video definition digital discs featuring animation; Digital media, namely, DVDs, downloadable audio and video files featuring television programs, cartoons, music in the field of entertainment; Downloadable video audio visual recordings featuring television programs, cartoons, music in the field of entertainment devices; Prerecorded digital video disks featuring television programs, cartoons, music in the field of entertainment; cassettes featuring television programs, cartoons, music in the field of entertainment

International Class(es): 009 - Primary Class

U.S Class(es): 021, 023, 026

Class Status: ACTIVE

Basis: 1(a)

First Use: Dec. 31, 1996

Use in Commerce: Dec. 31, 1996

Used Anywhere in Another Form: The mark was first used anywhere in a different form other than that sought to be registered at least as early as 12/31/1996.

Used in Commerce in Another Form: The mark was used in commerce in another form other than that sought to be registered at least as early as 12/31/1996.

Basis Information (Case Level)

Filed Use: Yes	Currently Use: Yes
Filed ITU: No	Currently ITU: No
Filed 44D: No	Currently 44D: No
Filed 44E: No	Currently 44E: No
Filed 66A: No	Currently 66A: No
Filed No Basis: No	Currently No Basis: No

Current Owner(s) Information

Owner Name: Tardy, Beau	
DBA, AKA, Formerly: FORMERLY Dizzy Productions, Dizzy Worldwide Corp., Dizzy TV, Aquarium Creative Agency	
Owner Address: 1659 Hill Top Lane Kingwood, TEXAS 77339 UNITED STATES	
Legal Entity Type: INDIVIDUAL	Citizenship: UNITED STA

Attorney/Correspondence Information

Attorney of Record

Attorney Name: Wendy Peterson	
Attorney Primary Email Address: wsp@NJPLS.com	Attorney Email Authorized: Yes

Correspondent

Correspondent Name/Address: WENDY PETERSON NOT JUST PATENTS PO BOX 18716 MINNEAPOLIS, MINNESOTA 55418-0716 UNITED STATES	
Phone: (651) 500-7590	
Correspondent e-mail: wsp@NJPLS.com	Correspondent e-mail Authorized: Yes

Domestic Representative - Not Found

Prosecution History

Date	Description	Proceeding Number
Feb. 05, 2015	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Aug. 05, 2014	REPORT COMPLETED SUSPENSION CHECK CASE STILL	

	SUSPENDED	
Aug. 04, 2014	ASSIGNED TO LIE	74221
Feb. 03, 2014	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Aug. 01, 2013	REPORT COMPLETED SUSPENSION CHECK CASE STILL SUSPENDED	
Feb. 01, 2013	NOTIFICATION OF LETTER OF SUSPENSION E-MAILED	6332
Feb. 01, 2013	LETTER OF SUSPENSION E-MAILED	6332
Feb. 01, 2013	SUSPENSION LETTER WRITTEN	83189
Feb. 01, 2013	EXAMINER'S AMENDMENT ENTERED	88888
Feb. 01, 2013	NOTIFICATION OF EXAMINERS AMENDMENT E-MAILED	6328
Feb. 01, 2013	EXAMINERS AMENDMENT E-MAILED	6328
Feb. 01, 2013	EXAMINERS AMENDMENT -WRITTEN	83189
Jan. 28, 2013	NOTIFICATION OF NON-FINAL ACTION E-MAILED	6325
Jan. 28, 2013	NON-FINAL ACTION E-MAILED	6325
Jan. 28, 2013	NON-FINAL ACTION WRITTEN	83189
Jan. 28, 2013	ASSIGNED TO EXAMINER	83189
Oct. 04, 2012	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	
Oct. 02, 2012	NEW APPLICATION ENTERED IN TRAM	

TM Staff and Location Information

TM Staff Information

TM Attorney: FLOWERS, JAY K

Law Office Assigned: LAW OFFICE

File Location

Current Location: TMO LAW OFFICE 112 - EXAMINING ATTORNEY
ASSIGNED

Date in Location: Feb. 01, 2013

Assignment Abstract Of Title Information - Click to Load

Proceedings - Click to Load

Exhibit 9

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Opposition Proceeding 91205896

In the matter of Trademark Application No. 85509929

For the mark: DIZZY

Published for Opposition Date: June 5, 2012

Beau Tardy, Opposer/Opposer

v.

Wild Brain Entertainment, Inc., Applicant

SUPPLEMENTAL DISCLOSURE: BEAU TARDY DECLARATION

I, Beau Tardy, declare that I am the owner and creator of the DIZZY mark and am authorized to make this declaration. I declare further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of this application and any registration resulting therefrom.

1. I have searched my records to provide responsive documents and answers to all of the discovery requests by Applicant. This declaration contains all the additional information and documents available that will be used by Opposer except that

information already provided in initial disclosures and already provided in discovery responses. This declaration is being provided in response to a duty to supplement discovery responses in a timely manner because Opposer has learned that in some material respect the previous disclosures or responses may have been incomplete. This corrective information is being made known to Applicant as a part of the discovery process in writing under Fed. R. Civ. P. 26(e)(1)(A). HUNTER INDUSTRIES v. THE TORO COMPANY, 91203612 (TTAB 2014).

2. On March 31, 2006 my name was officially changed from Jean-Marie Ledoux Tardy to Beau Ledoux Tardy in the Superior Court of New Jersey, Middlesex County. Therefore any reference to Jean-Marie Tardy, or Jean Tardy in official documents prior to 2006 refer directly to me, Beau Tardy.
3. I am the creator and owner of the Dizzy trademark and associated IP. In 1994 I created the Dizzy brand name for my company Dizzy Productions and paid New York state and federal taxes as d/b/a Dizzy Productions. In 1997, Dizzy Productions was changed to Dizzy Worldwide Corp. and was incorporated in the state of New York. The only officers were my wife **Mara Marich** and myself. We never sold stock nor hired other board members or officers. Hence all IP developed by and for Dizzy Worldwide Corp. belonged to and still belongs to my wife and myself.
4. In 2000, we moved to Sydney, Australia to open a second international branch of Dizzy Worldwide Corp. We were issued a Certificate of Registration of a Foreign

Company by the Australian Securities and Investment Commission in August 2000.

Our Sydney office handled clients in Asia-Pacific garnering an Australian Television Award for Best Commercial Direction.

5. In 2007, we incorporated under a new name, Aquarium Creative Agency in the state of New Jersey. Again, no other officers besides Mara Marich and myself ever owned or ran the business.
6. Currently, Mara Marich and I still own all the Dizzy assets. We continue to develop and utilize the Dizzy trade name and cat character in business, particularly on the web and on TV, YouTube, Vimeo and Roku.
7. 2006-2012: In 2006 I developed the cartoons called Dizzy Flashtoons, which were pitched to MTV. I created a web domain called Dizzycartoons.com and posted them online. I also registered the domain Dizzytv.com for streaming media. In 2006 Dizzy Worldwide won a Communicators Award for animation for an MTV commercial.
8. In 2007 the online store Dizzyshop.com was created to sell t-shirts, posters, stickers, music cds and video dvds. In 2007 Dizzy Worldwide won a silver Telly Award.
9. In 2008, more Dizzy Flashtoons were created but were not posted online in an effort to sell them to a network before self-publishing them. The web domain Dizzyville.com was created along with the concept for an online computer game

called Dizzyville. Interestingly, in a successful online bidding process, the domain Dizzyville.com was wrested away from a competitor who was attempting to create a similarly named service. Our websites, Dizzyshop.com, Dizzyworldwide.com, Dizzythecat.com, Dizzycartoons.com and Dizzytv.com continued to receive traffic. The Dizzy name and cartoon character were used on TV shows broadcast to air on Princeton TV 30 and streamed online through Ustream.

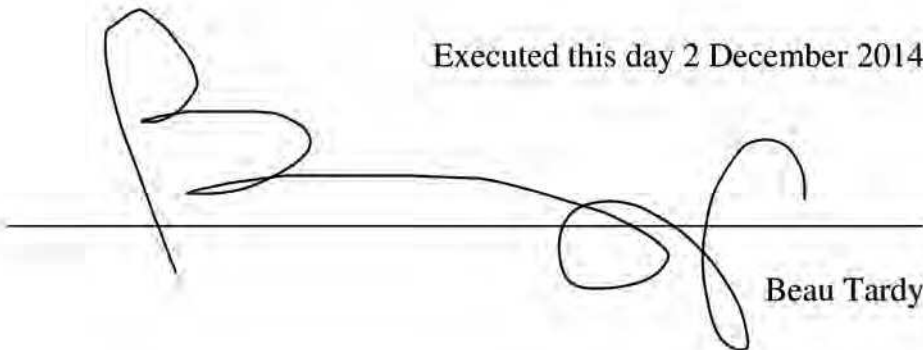
10. In 2009, we continued to do business as Dizzy Worldwide as a d/b/a and mainly focused on websites and online content as evidenced by advertising revenue from Google. We created and sold music cds of the music that was aired on Dizzy TV. These were sold on Dizzyshop.com as well as Bandcamp. We continued to broadcast Dizzy TV on channel 30 and Ustream.
11. In 2010 we registered the domain name Dizzycomics.com in order to publish comics online. Downloadable music was made available on Bandcamp. We continued to stream on Ustream and to sell posters and t-shirts on Dizzyshop.com.
12. In 2011, we continued to stream content on Ustream and Dizzytv.com and posted videos to YouTube and Vimeo under the Dizzy name. Efforts were being made to develop Dizzycomics.com to post comics online and trials were being made to publish comics on the Amazon Kindle under a different name.

13. In 2012 a Dizzy TV dvd was released. The websites Dizzythecat.com, Dizzytv.com, Dizzyville.com, Dizzyshop.com, Dizzyworldwide.com and Dizzycartoons.com were all maintained and continued to receive traffic. More videos were posted on YouTube and Vimeo and streamed on Ustream.

14. In 2013-2014, Dizzy Comics began to be published in newspaper format in the Houston area. Dizzy videos were created and displayed at the Museum of Modern Art in New York for the MoMA PopRally. Dizzy Flashtoons were pitched to Nickelodeon Animation and to Frederator Studios in New York. A new Dizzy TV pilot was created and a Dizzy TV channel was created on Roku. Videos continue to be posted on YouTube and Vimeo and streamed on Ustream. Music is available on Bandcamp. Work on a cartoon syndicate under the Dizzy name was started.

15. Exhibit A contains a sampling of some of the DIZZY uses in commerce from 2005 to the present. The DIZZY mark has been used continuously in the US during the relevant years from 2006 until Applicant's constructive first use date.

Executed this day 2 December 2014



Beau Tardy

Submitted By: /Wendy Peterson/

Date: December ~~2~~2014

Wendy Peterson, Attorney for Opposer, Beau Tardy

Not Just Patents LLC

PO Box 18716

Minneapolis, MN 55418

(651) 500-7590; wsp@NJPLS.com

CERTIFICATE OF SERVICE

3

I hereby certify that on December ~~2x~~ 2014, the foregoing was served upon Applicant's attorney by email to:

jreichman@kenyon.com, wmerone@kenyon.com, tmdocketny@kenyon.com

3

By: /Wendy Peterson/

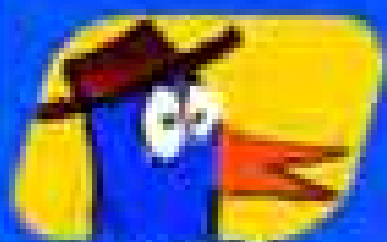
Date: December ~~2x~~ 2014

Wendy Peterson, Attorney for Opposer, Beau Tardy

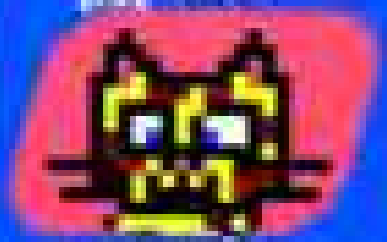


DIZZY THE CAT

#1



MR. BIRD



BONGHI



DIZZY

PLUS LOTS
MORE!





DIZZY THE CAT



How Dizzy Got Dizzy !



THE CAT

MR. BIRD

WADDLE

DIZZY

WADDLE

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play



DIZZY THE CAT



BONGA'S THERIA



- 41
- Mr. BIRD
- WOOE
- DIZZY
- WOOE

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start →



DIZZY SHOP .com



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1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 2659, 2660, 2661, 2662, 2663, 2664, 2665, 2666, 2667, 2668, 2669, 2670, 2671, 2672, 2673, 2674, 2675, 2676, 2677, 2678, 2679, 26



100

100

LISTENING



Radio 4 - 23. 2008. 01:02:36 GMT+0000

Radio 4 - 23. 2008. 01:02:36 GMT+0000

Radio 4 - 23. 2008. 01:02:36 GMT+0000

Radio 4 - 23. 2008. 01:02:36 GMT+0000

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Radio 4 - 23. 2008. 01:02:36 GMT+0000

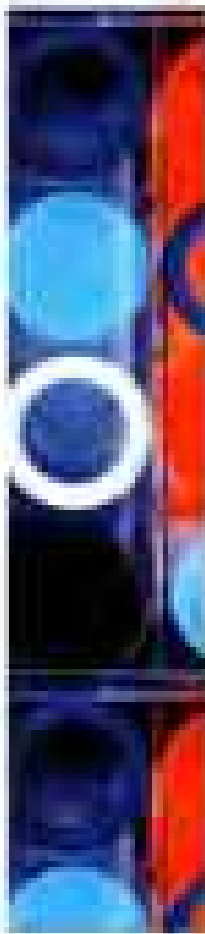
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Radio 4 - 23. 2008. 01:02:36 GMT+0000

Radio 4 - 23. 2008. 01:02:36 GMT+0000



Bury TV
Official Bury TV Channel



0:00 / 1:30

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Watch on Smart Home

Watch on Smart City

Watch on Smart Country

Watch on Smart World

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1. [Video thumbnail] [Title] [Channel]

2. [Video thumbnail] [Title] [Channel]

3. [Video thumbnail] [Title] [Channel]

4. [Video thumbnail] [Title] [Channel]

5. [Video thumbnail] [Title] [Channel]

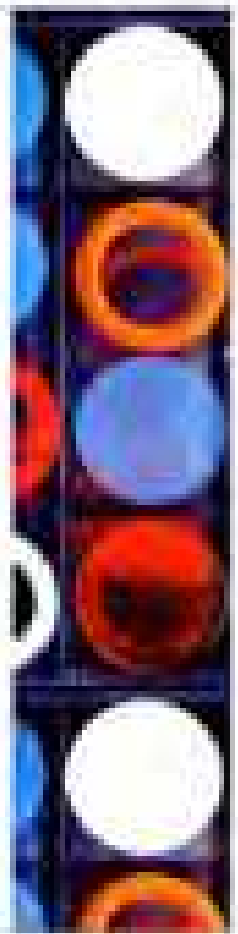
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9. [Video thumbnail] [Title] [Channel]

10. [Video thumbnail] [Title] [Channel]











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DIZZY TV

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Watch Dizzy TV (over)



To learn how to use the Dizzy TV (over)

It will be the same as the Dizzy TV (over)



Watch Dizzy TV (over)











612/27 TV

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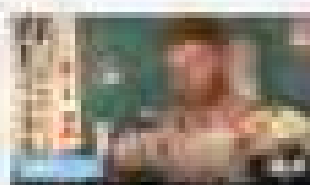
612/27 TV

612/27 TV

612/27 TV

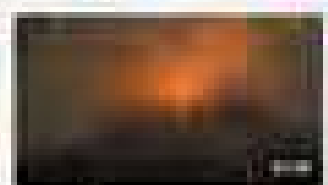
612/27 TV

612/27 TV



Interview: Phil Brown

10:00



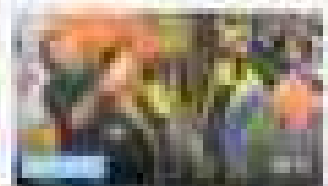
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10:00



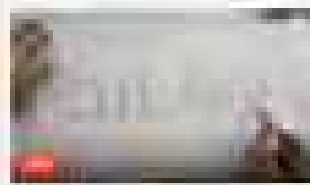
World's most beautiful people

10:00



Amazing world of...

10:00



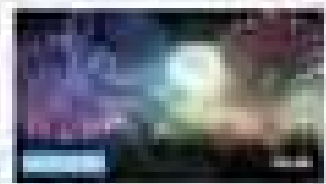
How to...

10:00



How to...

10:00



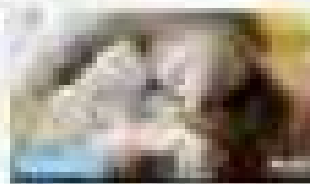
How far?

10:00



How far?

10:00



How far?

10:00



How far?

10:00



excerpt

Channel



43 views

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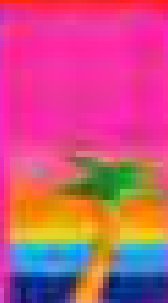


BUZZY THE CAT



BONGA'S

FRUIT



BONGA'S

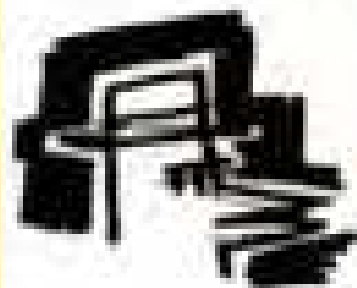
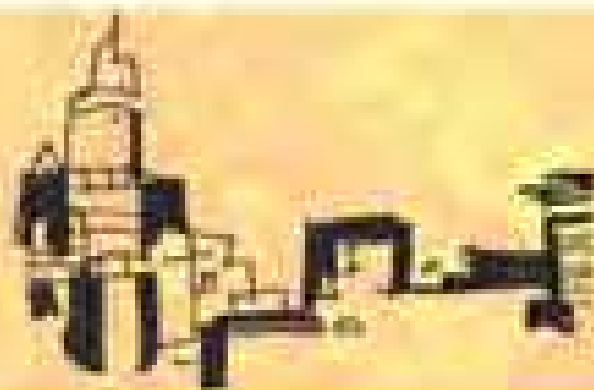


WIPE-OUT



"Mr. Bird"

main
character



© 2014 Beau Tardy

Mr. Bird

LEADY
BLOOM

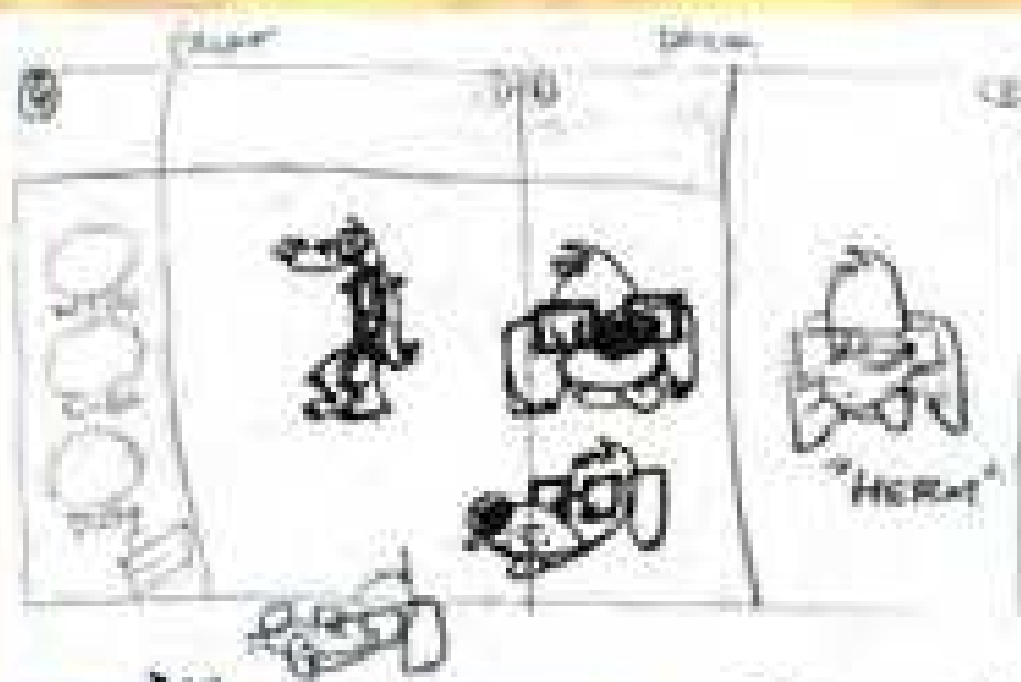


**"Fifi"
Mr. Bird's
girlfriend**

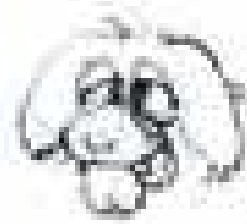


'Fifi'





**"HERM"
the
drummer**





"MO" the mysterious masked bass player



© 2014 by Bruce Terry





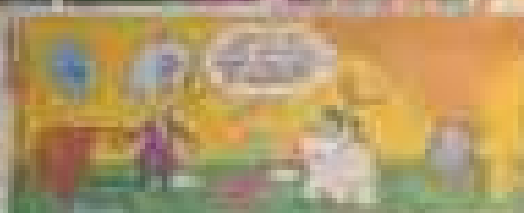
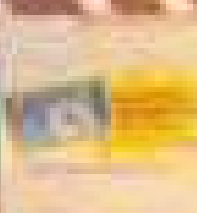
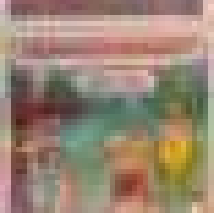
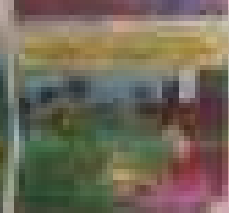
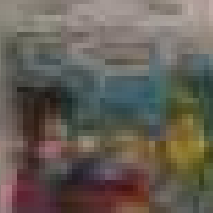
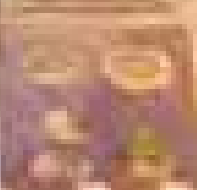
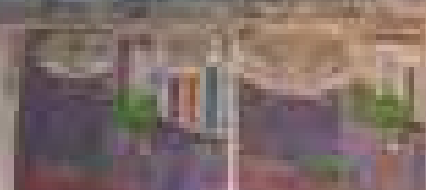
**Mr. Bird
drawings**



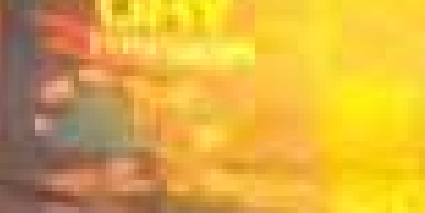
DIZZY COMICS



#



SAINT DAY



3.17.14

02-18-2014
2014-02-18
New Street

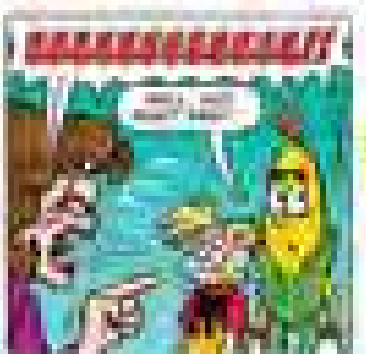
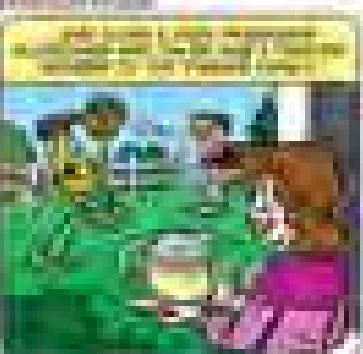
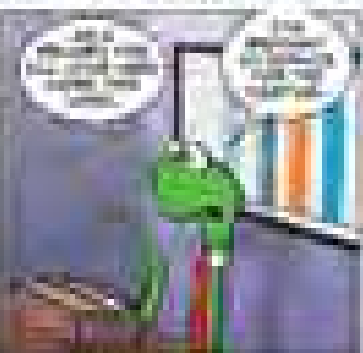


DIZZY COMICS

February 2012



Dear Friends, here it is, the first new Dizzy Comics! Featuring all new stories from STARR, LORAN JUNGLE, KIMBER RAY, THE AMAZING JIM COON and so much more to come! You can only get these here or at www.dizzycomics.com. If your paper doesn't carry Dizzy Comics, ask them to! Tell us what you think at www.dizzycomics.com





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- 📺 Watch Later 38
- 📺 Purchases 1

PLAYLISTS

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- 📺 Made by Jesse Tardy

📺 Dizzy TV

📺 Dizzy TV

📺 Liked videos

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Jazzy Burns

🔔 Subscribed

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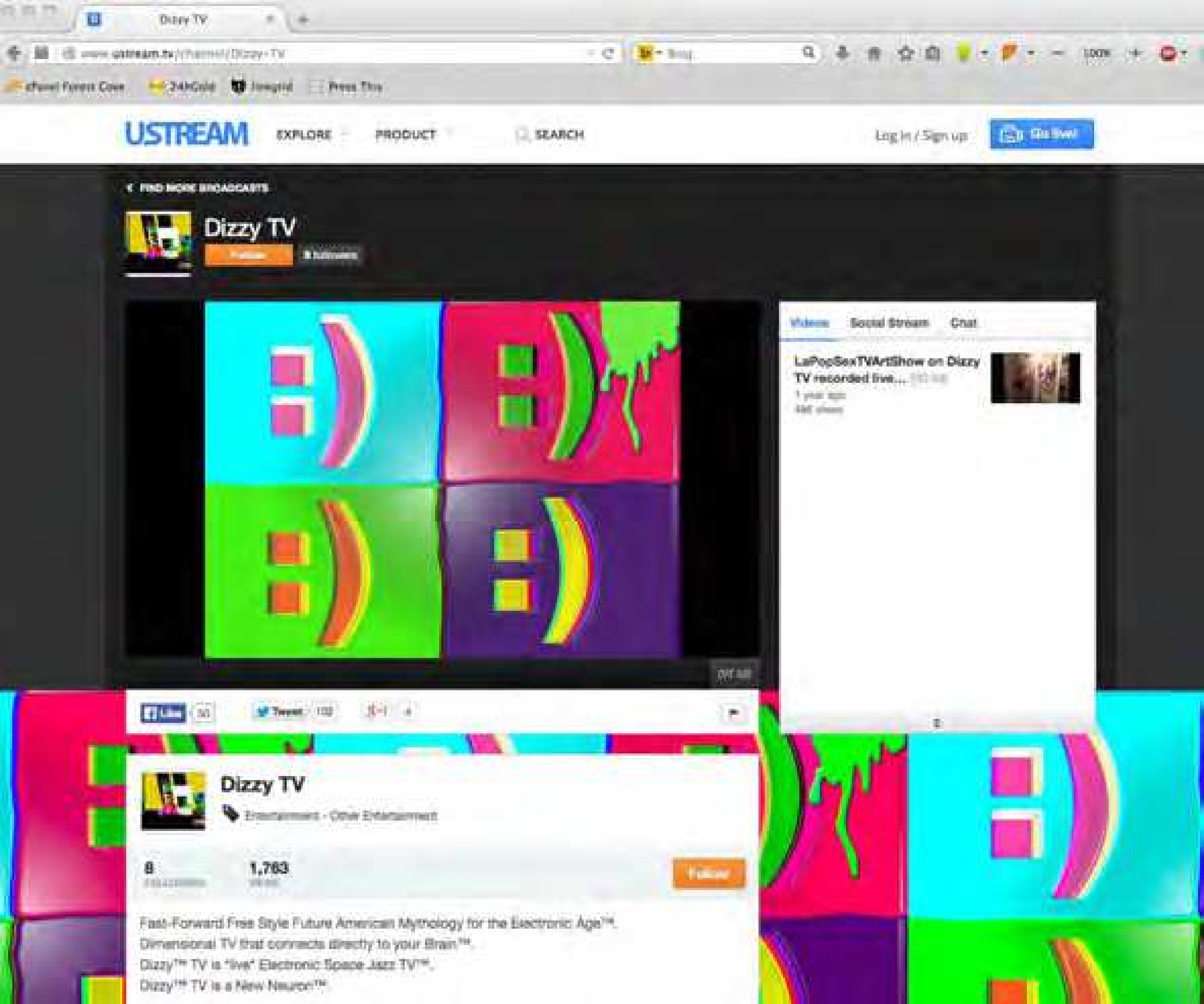
Dizzy TV

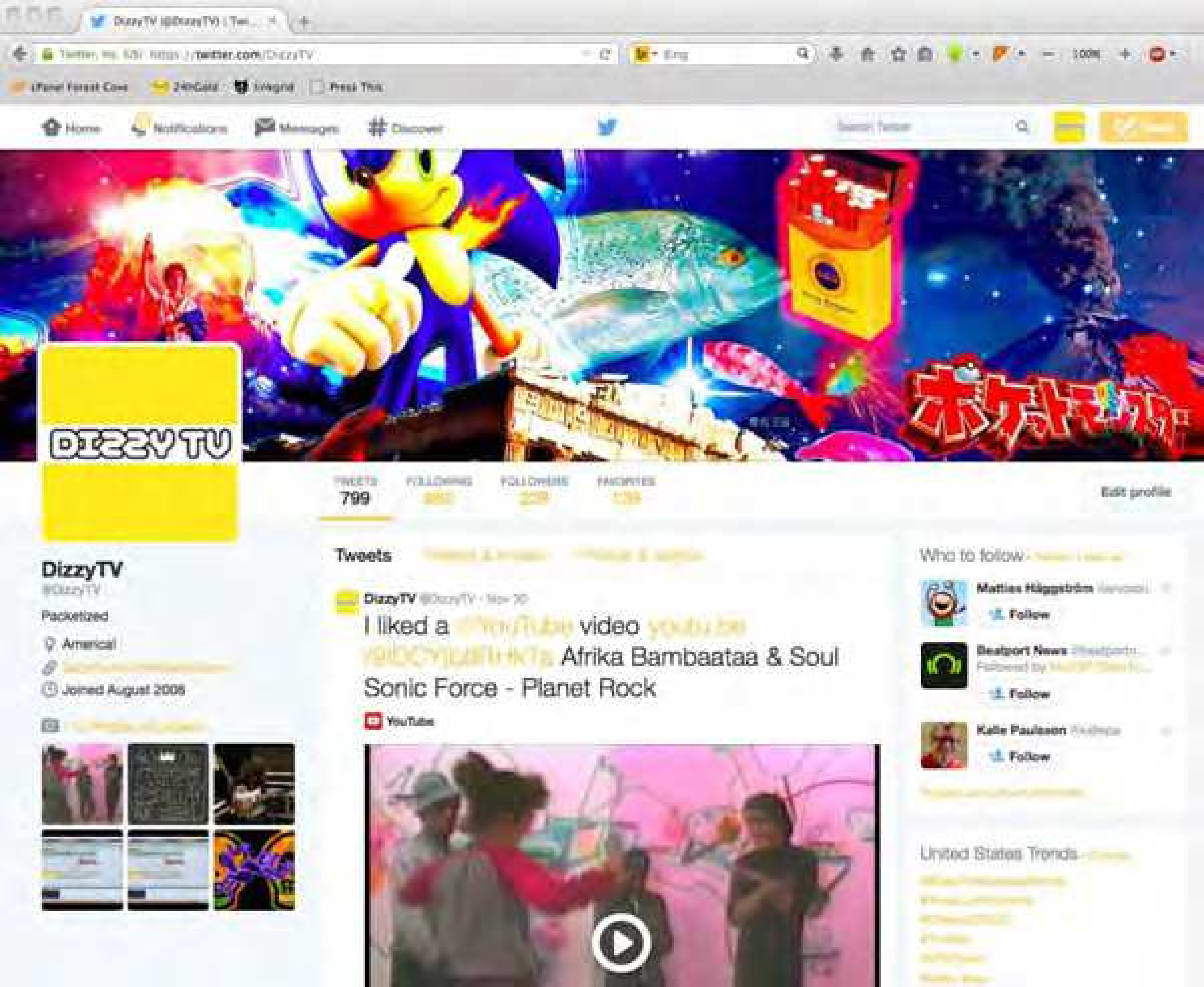
by Jazzy Burns • 7 videos • 17 views • 48 minutes

Dizzy TV started in 1986 in New York City. Originally broadcast on MPA cable across, the live DIZZY mix shows were soon streamed over the internet way before YouTube even existed. Now with YouTube and Vimeo you can enjoy the shows again and addt... more

- 🔍 Play all
- 🔍 Share
- 👍 Save

1		Dizzy TV new playlist	Jesse Tardy	7:42
2		Dizzy TV - Spin One 1998.mp4 📺 Old School "live" Dizzy TV	Jazzy Burns	4:00
3		Warner Party Animation	Jazzy Burns	8:11
4		Dizzy TV - Get With It	Jazzy Burns	4:00
5		WatchOut	Jazzy Burns	4:00
6		Jazzy Burns' "Live" on Dizzy TV.	Jazzy Burns	1:30
7		\$150	Jazzy Burns	4:00







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facebook /RayCathode

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DizzyTV.com

SONY



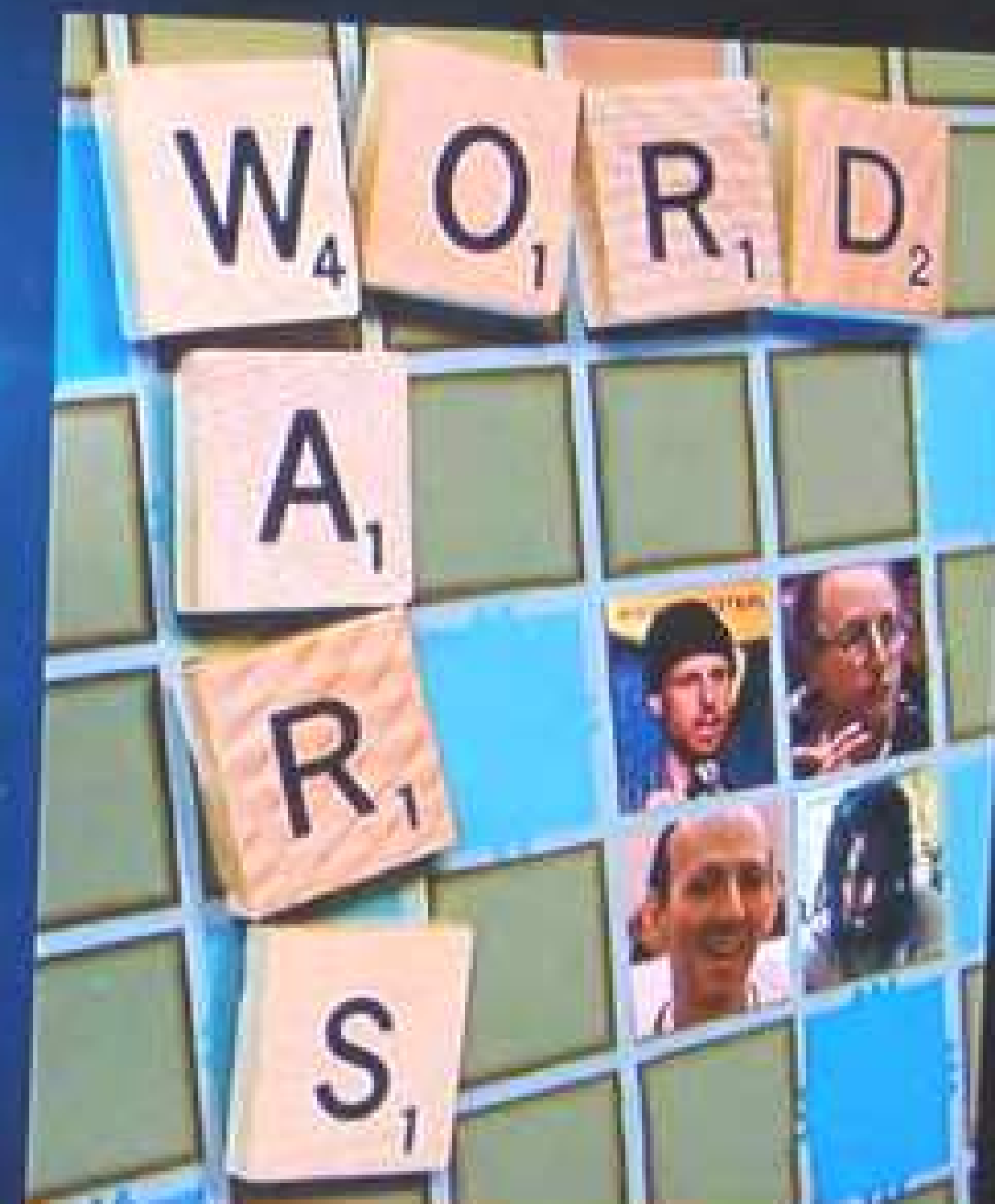
@DizzyTV In orbit now! #DizzyTV #liveTV



DIZZY TV

SONY

Dizzy TV | 47 of 56 Channels



Watch It Free on viewster



Dizzy TV Episode #0 New Pilot

Fast-Forward Free Style Future American Mythology for the Electronic Age .



Dizzy TV Episode #0 New Pilot

RAY CATHODE

Pilote episode of the new Dizzy TV. Featuring Bobby Tank, Flosstradamus, Jeremy Ellis and much more. Tune-in to live episodes at www.DizzyTV.com and follow on Twitter @DizzyTV.

2014

MUSIC · ART

Now available on Roku! Add Dizzy TV as a private channel with the code: dizzytv.



Dizzy TV

Ustream

Watch

See all videos by DizzyTV

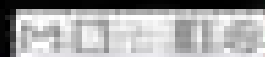
Watch Dizzy TV live on Ustream!

PLAYLIST: Dizzy TV



DIZZY TV

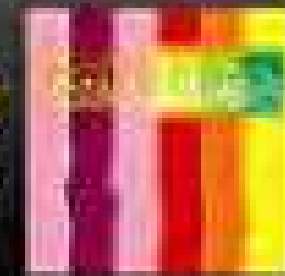
Watch the new Dizzy TV pilot on Youtube.



All including fees






cd baby

BUY THE ALBUM



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I liked a @YouTube video
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I liked a @YouTube video
[youtu.be/0C7Yb09H47c](#) Anna
Bamburda & Soul Sonic Force -
Planet Rock
[Show Media](#)
-  DizzyTV @DizzyTV 18 mins
Toy Train ID 2 1064 SDTV QT with
[youtu.be/0C7Yb09H47c](#) via
@YouTube
[Show Media](#)
-  DizzyTV @DizzyTV 18 mins
Some old anims I did for backrooms.
[youtu.be/0C7Yb09H47c](#)
-  DizzyTV @DizzyTV 17 mins
[Tweet to @DizzyTV](#)

Video Integration

Domains

Organize										
All Domains (37)										
✓	Domain Name	Expires	Status	Auto-Renew	Lock	Privacy	Certified Do...			
<input type="checkbox"/>	LDIZZYCARTOONS.COM	9/21/2015	Active		✓					
<input type="checkbox"/>	LDIZZYCOMICS.COM	5/5/2015	Active		✓					
<input type="checkbox"/>	LDIZZYSHOP.COM	10/19/2015	Active		✓					
<input type="checkbox"/>	LDIZZYTHECAT.COM	1/5/2015	Active	✓	✓					
<input type="checkbox"/>	LDIZZYTV.COM	5/7/2015	Active		✓					
<input type="checkbox"/>	LDIZZYVILLE.COM	9/10/2015	Active		✓					
<input type="checkbox"/>	LDIZZYWORLDWIDE.COM	6/18/2015	Active		✓					

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01-11-2001



THIS WEEK

0 Page Likes

UNREAD

0 Notifications

0 Messages

Recent 1113

Timeline About Photos Instagram Feed More

PEOPLE

17 Likes

Reach a new milestone
100 Likes

[Promote Page](#)

Invite your friends to like Dizzy-TV

Stephen Donohue

Like

Emily Provosty

Like

[See All Friends](#)

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Status Photo / Video Event, Milestone

What have you been up to?

Dizzy-TV
September 17 at

Dizzy TV now on Roku! If you have a Roku box, go to www.roku.com and add private channel. Code: dizzytv
Free and awesome!

[Boost Post](#)